

3. Town of Brookline  
Advisory Committee Minutes

Harry K. Bohrs, Chair

Date: March 18, 2014

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Present: Harry K. Bohrs, Carla Benka, Clifford M. Brown, Lea Cohen, John Doggett, Bernard Greene, Kelly A. Hardebeck, Nancy S. Heller, Amy F. Hummel, Systke Humphrey, Alisa G. Jonas, Janice S. Kahn, Bobbie Knable, Pamela Lodish, Sean M. Lynn-Jones, Shaari S. Mittel, Michael Sandman, Lee L. Selwyn, Stanley L. Spiegel, Charles Swartz, Leonard A. Weiss

Absent: Sumner J. Chertok, Angela Hyatt, Fred Levitan, Karen Wenc, Christine Westphal

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The meeting was called to order at 7:30 PM.

**1. Agenda Item: Department of Public Works FY 2015 Budget**

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Presenting for the subcommittee is: Carla Benka

See Appendix for Report of Subcommittee.

Also Present: DPW Commissioner Andrew Pappastergion, Director of Water and Sewer Fred Russell, Director of Parks and Open Space Erin Gallentine, Director of Highways and Sanitation Kevin Johnson, and Director of Engineering and Transportation Peter Ditto.

**Presentation:**

Top accomplishments:

- 1 Lower Beacon Street completed
- 2 Muddy River: Design phase 1 to complete w/in 2 years
- 3 Safety improvements on Cypress Street
- 4 Parking meter installation complete
- 5 Plans for Waldstein park completed
- 6 Billy Ward playground is also almost completed

Coming up:

- 1 Led street lights – 4 year program to replace them all with LED

2 Fisher Park is underway and will take about 18 months including work on the building on the property and possible uses. Note: not heated, somewhat isolated; but perfect opportunity to have eyes on the park, so balancing act to be investigated but a lot of excitement about it. Beautiful landscaping plans.

3 Solid waste contract which expires in late June. Private or in-house? Size of Totters? Hybrid PAYG? In discussions and negotiations now.

**Discussion:**

Pappastergion: Only a tiny (\$15,000) increase. Decrease in professional services, \$6,000 decrease in street light maintenance, increase in software costs including mobile platform to allow data entry from the field, 2.5% mandated increase for landscaping service, decrease \$36,000 for solid waste disposal, decrease of \$57,000 in utilities.

Objectives: 1. Water & Sewer: complete implementation of online customer database to check consumption/ make payments. 2. Report and recommendations on different treatments for crosswalks throughout town. 3. New pavement management system. To create a better plan for treatment and maintenance of roads. 4. Managing taxi licenses to medallion program. 5. Installation of LED street lights over 4 years. 6. Complete Fisher Hill Reservation park, and Waldstein and Warren Field

Q: Capping of rear landfill. A: Starting July 1 with design. Construction about late spring 2015, and 12 months construction.

Q: There is less on graffiti removal. Why? A: Significant decrease in graffiti throughout town.

Q: Economics of LED lamp replacement: how long do lamps last? A: 20 years as opposed to 2 years on current lamps. We get a sizeable rebate from NStar for these lights. We've tailored this program to take maximum benefit of this program. When complete, it will save ¼ \$mil in energy costs.

Q: Can we adjust the intensity and heat of the light? A: Yes, when we put them in. We had talked about a smart control system allowing us to control each fixture. That system is extremely expensive. Our fixtures can be retrofitted with smart controls, when cost goes down and technology develops. We will not see different colors/heat of the light. Current lights are 2700 Calvin; we opted for a light at 4200 Calvin – a bit softer in color. Arguably safer than higher Calvin.

Q: Has the transportation clerk been replaced? A: Not yet. They have requested an authorization to hire from BOS and are waiting.

Q: Solid waste contract? A: Price has dropped significantly. They are in the midst of negotiating now. The prices on private curbside collection are quite high so will probably remain quite high.

Q: What is required, electro/mechanically, to increase parking rates for the meters. A: Digital ones and IPS can be changed via any computer. On digital, just have to replace the stickers. One day's work.

Mechanical ones are labor intensive – programming at the DPW office, download to handheld device, and then to each meter. 4-5 people for about 2 days.

Q: Repaving looks great but then manhole covers sink down. Hard especially for bike riders. A: That should not happen on a new road; please let DPW know. May be temporary due to frost heaves on roads.

Q: Carlton Footbridge project: when can we hope to see it complete? A: Tied to phase II of the Muddy River project. Likely by approximately 2016.

Q: Pay as you throw program: how realistic is it? A: Doesn't see us going to pure pay, but might accept a hybrid system: a totter for trash and will have to purchase overflow bags if your trash doesn't fit. Only those bags would be picked up as overflow. Bags can be purchased locally. Newton has that system.

Q: What about meters – all converted to IPS? A: BOS recently approved transition to IPS for high use select areas. 95 meters will be changed over to IPS w/in the next month. After that, there's no plan in short term because no funding now.

Q: Fisher Hill neighborhood meeting: why are we not using AstroTurf instead of grass? A: Synthetic turf is significantly more expensive (\$600,000 additional funding for example, for Fisher Hill). Some discussion also whether it was appropriate for this park. Or better sites in town to make the investment. Ongoing maintenance is significantly reduced. But no mowing, irrigation, aeration, overseeding, and other annual maintenance. You would break even at 12 years out.

Q: How long do synthetic fields last? A: Approximately 8 years. Has significant underground drainage system.

Q: Are there plans to install meters where MBTA removed their stops? A: Either Brookline or MBTA will do this, but must wait until spring to drill meter holes.

Q: AC asked to prioritize North Brookline for LED installation. A: Yes, will prioritize there, and other areas of special request, plus main streets.

Q: What about replacing benches in Coolidge Corner (in front Devotion Playground; in front of Arcade; near Beacon Street; in front of Trader Joes). Is that on the schedule? A: DPW will look into this.

Pappastergion: When they implemented single stream, there was 10% reduction in solid waste. Now we've reached a plateau. Large totters tend to reduce solid waste.

Q: What about composting service? A: No place for it in Brookline - too close to homes.

**Vote:**

Upon motion duly noted and seconded, the committee voted in regard to the Subcommittee's recommendation of \$14,066,549 for the FY 15 DPW budget.

20 in favor, unanimous.

**2. Agenda Item: Water and Sewer Enterprise Fund - FY 15**

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Presenting for the subcommittee is: Carla Benka

See Appendix for Report of Subcommittee.

Also Present: Same as DPW item above.

**Discussion:**

Pappastergion: Overall decrease of \$102,076. Objectives: Are in 2<sup>nd</sup> phase of water audit, which will make recommendations on further improvements in water distribution. Continue to upgrade water basin cleanup.

Q: Is Newton doing any work on their construction near South Brookline to minimize drainage? A: It has already happened, but it's underground. Put in a slip line of 1,000 feet underground. Q: What else are we getting from Newton? A: \$55,000 for traffic calming; about \$140,000 at intersection of Route 9 and Heath Road.

**Vote:**

Upon motion duly noted and seconded, the committee voted in regard to the Subcommittee's recommendation of \$26,826,419 for the FY 15 Water and Sewer Enterprise Fund Budget.

20 in favor, unanimous.

**3. Agenda Item: Recreation Department FY 2015 Budget for Golf Enterprise Fund**

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Presenting for the subcommittee is: Pam Lodish

Also Present: Lisa Paradis, Director of Recreation; Melissa Battite, Assistant Director of Recreation

Golf Enterprise Fund: Revenue is up by 10% . They are confident they will generate the increase of about \$10,000.

Q: Vine Ripe Grill looks 100% better. Note: Town did that work. A: It will be put out to bid when it's next up in 3 years.

Q: What shape are greens now? A: With a lot of snow cover, greens are in good shape.

Q: Are there any plans or thoughts for driving range? A: Yes, there are discussions and planning, and with hole 1, they adjusted the T box to make room for a practice facility, aka, driving range. Plan is in the works to create this, with an architect. They are definitely planning on this, and will need the capital to make it happen.

Paradis: This year, looking at hole 18: in the shoulder seasons and at specific times of day, utilize the 18<sup>th</sup> hole in reverse as a short driving range.

**Vote:**

Upon motion duly noted and seconded, the committee voted in regard to the Subcommittee's recommendation for the Golf Enterprise Fund FY 2015 Budget in the amount of \$1,331,923:

20 unanimous.

**4. Agenda Item: Recreation Department FY 2015 Budget Revolving Fund**

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Presenting for the subcommittee is: Pam Lodish

Also Present: Lisa Paradis, Director of Recreation; Melissa Battite, Assistant Director of Recreation

Now at about 77% cost recovery. They feel their fees are maxed out.

Paradis: Pricing: Balance between the support/subsidy of the Town to support public recreation, and the costs incurred and the price in the marketplace. They are now using cost recovery as the business model to set fees. Looking at expenses and at market analysis, and then decide whether or not to adjust the fee; look at whether program is beneficial to our mission, and if so, will we invest, partner/collaborate, or other? They have 10 cost centers, mostly associated with facilities, with cost recovery for each facility, and then overall for revolving fund. Increase of 4% for the fund this year.

Q: Do some cost centers recover more than 100% to subsidize the lesser recovering cost centers? A: Yes.

Q: What leads us to unrecovered funds? A: The pool, especially, also the ice skating rink at Larz Anderson. We are very different than other town, with much larger operation. 400+ programs, for example.

Comment: We have huge amount of programs supporting youth, too. Very impressive.

Q: Relationship of Soule pre-school to Beep. What is your take on why maintaining Rec pre-school separate and apart from Beep? A: Historically, Soule was the morning play department for almost 60 years. About 10 years ago, became a full service child care facility, 8am – 6pm, year round. Differences with Soule: not a public school, different calendar, different model, age 12 months to pre-school/5

years. Curriculum is hybrid of Montessori and Reggio\_Emilia (Italian). Serve only Brookline residents. 72 spaces. At capacity and extensive wait list. Beep is a very different program, and parents choose depending on needs and interests. Beep has support services, for example. They are now looking at raising rates for next 3 years, by 20% each year, or 60% in three years; it will then be comparable to Beep in rates.

Comment: The first budget member Benka ever did on AC was for recreation department. She was very impressed with the recreation department programs. 75% of budget covered by fees. 25% by taxpayer dollars. Figures are about the same now; and that was without OPEBs.

Q: Park and recreation master plan had features: bicycle paths, pools, covered tennis courts. What is its role in terms of where she'd like to move/ add to the Rec Department. A: Saw the need for a community wellness center. Looking at the model which is the connection of the pool and Tappan facilities. School enrollment issues are now impacting on what might happen there. A health and wellness community center for families – a walk in place – for staff to serve people. Probably not going to happen because of school space needs.

Q: Soule recreation center? Do families stay? A: Yes. Selections from the wait list are based on gender, age, days they need, when they are listed on the wait list. Q: Could there be another system, such as lottery, to maximize access? A: We are catching up on cost, so it won't be inexpensive so long. They have a diverse pool of applicants and feel they are servicing all of the community. They do give sibling preference.

Q: What about private pre-schools using town parks? Does town get any revenue for use of town parks? A: That topic has been widely debated. Now, there's a master schedule, monitored by Board of Health, which is working. It has allowed the restrictions on new daycare centers, unless they have their own outdoor space.

Q: What about charging daycare centers for using our parks? A: These parents already pay taxes to use these parks.

**Vote:**

Upon motion duly noted and seconded, the committee voted in regard to the Subcommittee's recommendation for the Recreation Department Revolving Fund in the amount of \$2,742,350

Vote: 20 unanimous.

## **5. Agenda Item: Recreation Department FY 2015 Budget General Fund**

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Presenting for the subcommittee is: Pam Lodish

Also Present: Lisa Paradis, Director of Recreation; Melissa Battite, Assistant Director of Recreation

### **Vote:**

Upon motion duly noted and seconded, the committee voted in regard to the Subcommittee's recommendation for the Recreation Department General Fund FY 2015 Budget in the amount of \$1,006,120

19 unanimous.

**Motion to adjourn, unanimous.**

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The meeting was adjourned at 10:00 PM.

### **Appendix:**

**A. Department of Public Works**

**B. Recreation Department**

**C. Mel Kleckner Memo re Funding FY 2015 Bridge Budget**

**D. Warrant Copies**

**E. Proposed Warrant hearing schedule; proposed Warrant sub committee assignments**

**Department of Public Works  
FY 2015 Operating Budget and  
FY 2015 Water and Sewer Enterprise Fund  
March 18, 2014**

The Advisory Committee's Capital Subcommittee held a public hearing on the FY 15 operating budget for the Department of Public Works on February 27, 2014, at 5:30 p.m. in room 408 of Town Hall. In attendance were DPW Commissioner Andrew Pappastergion, Director of Water and Sewer Fred Russell, Director of Parks and Open Space Erin Gallentine, Director of Highways and Sanitation Kevin Johnson and Director of Engineering and Transportation Peter Ditto. Also in attendance were Subcommittee members Fred Levitan, Pam Lodish, and Amy Hummel and Committee Chair Carla Benka; Deputy Town Administrator Sean Cronin; Fred Lebow, Town Meeting Members Clint Richmond, Tommy Vitolo, and Edie Brickman; and Bicycle Advisory Committee member Cynthia Snow.

A second hearing was held on March 4, 2014 to discuss the Park and Open Space budget. Present at this meeting were Subcommittee members Fred Levitan, Pam Lodish, and Amy Hummel and Committee Chair Carla Benka, Deputy Town Administrator Sean Cronin, DPW Commissioner Andrew Pappastergion, Director of Parks and Open Space Erin Gallentine, TMMs Jane Gilman, Clint Richmond, Harry Friedman, Hugh Mattison and Bruce Wolf, and Nancy O'Connor and John Bain, Vice Chair and Chair, respectively, of the Parks and Recreation Commission.

The DPW has one of the largest operating budgets in the town (\$14,066,549), exclusive of the Water and Sewer Enterprise Fund. The DPW provides essential services to Brookline residents and is one of two departments directly responsible for maintaining the capital assets of Brookline. The DPW budget, found on pages **IV 63-83**, contains six Public Works sub-programs, including Administration, Engineering/Transportation, Highway, Sanitation, Parks and Open Space, and the Water and Sewer Enterprise Fund. Individual sub-programs as well as the sub-program summary may be found on page **IV 70 - 71**, while budgets for elements within each sub-program may be found on pages **IV 72- 73**. The Capital Outlay Summary is found on pages **II 26 and 28**. A breakdown of FTE Equivalent Positions Funded is found on page **II 29**.

The FY 15 budget is basically level funded. A summary of increases and decreases in the DPW budget is found on page **II 15-16** and depicts an overall increase of \$15,112 (0.1%). The DPW currently has 133.08 FTE positions between Administration (8), Engineering/Transportation (14), Highway (52), Sanitation (17.07) and Parks and Open Space (42.31); the Water & Sewer Enterprise Fund employs 41.5 FTEs (Water 36.5 and Sewer 5). There were no major changes in FTEs.

Of some particular note with respect to non-personnel items, there is an increase of \$4,550 in Data Processing Software Maintenance, an decrease of \$6,000 in the Street



Lighting and Repair Maintenance, an increase of \$16,000 in Data Storage Services for parking meters, an increase of \$36,191 in our Solid Waste Disposal/Recycling Contract, an increase of \$7,071 in Landscaping Services, an increase of \$21,000 in Credit Card Service Charges, a decrease of \$40,000 in Professional/Technical Services as the Taxi Medallion Consultant's work is completed, a decrease of \$20,000 in Recycling Supplies, and an increase of \$20,000 in Construction Supplies.

In utilities, there is an increase of \$4,268 in Electricity, a decrease of \$10,674 in Natural Gas, a decrease of \$17,197 in Diesel Fuel and a decrease of \$41,174 in Water and Sewer.

The DPW Capital Outlay Budget has been set at \$700,000 since 1994 and remains at that level for FY 15. Capital items include 50 leased PCs, Sanitation Department equipment including the second year lease of a 32 Yard Rubbish Packer (\$86,638) and other Highway Department equipment such as the third year lease of a Street Sweeper (\$48,533), the third year lease of a Back Hoe/Loader (\$38,133), four 4 Wheel Drive Clean Diesel trucks with snow plows (\$197,100). The Parks and Open Space Department Capital Outlay includes the purchase of 4 new trucks, two 60" riding mowers (\$22,500), a rounds Tractor (\$13,000), a Horticultural Trailer (\$9,000) and miscellaneous small equipment (\$10,000). The detailed list of the FY 15 Equipment Capital Outlay can be found on page **II 26**.

The subcommittee had a lengthy review of DPW's recent accomplishments and its FY 15 objectives. It also had an update on the Muddy River Restoration Project and potential changes in the Town's sanitation pickup program necessitated by the current contract ending on June 30, 2014.

A change in the Town's streetlights is coming, with DPW's three-year program of replacing all roadway/street lighting fixtures with LED bulb fixtures. 900 of these fixtures have been ordered for the first year installation and are expected within six weeks. All street light installations are to be done by DPW staff. A discussion ensued about the kelvin temperature of the new lights. Current streetlights are in the 2700-degree kelvin range. Some people find lights above 5000 kelvin to be an issue. Therefore, the Town has ordered lighting in the 4,000 -4,500 kelvin ranges to avoid any such issues. At some point in time as costs decrease, the Town has plans to retrofit these new lights with a module that will allow the lights to auto-dim.

The subcommittee discussed the use of semi-permeable materials instead of asphalt for various applications. The costs of these porous materials run 5 to 10 times the normal costs of asphalt due to the required depths of materials and at this time are considered too expensive and not cost efficient. As costs decrease, we will attempt more uses of these materials.

In response to Ms. Brickman's comments, the subcommittee also discussed snow removal operations, particularly on public sidewalks. The Commissioner explained that the department's sidewalk plows were becoming less dependable due to age and that he would be seeking permission from the Board of Selectmen to purchase a new piece of equipment to replace a 1999 Bombardier.

TMM Clint Richmond brought up the Town's policy on energy efficient vehicles. Mr. Richmond believes that the Town should be buying hybrid vehicles when possible and if necessary, buying fewer or smaller vehicles in order to continue the climate action plan objective of moving to non-fossil fuels. Following up on this topic, Melissa Goff forwarded to the subcommittee and Mr. Richmond the Town's vehicle policy as required by the State's Green Community Division of the Department of Energy Resources. (See attached.)

The Capital Subcommittee also focused on the conditions of the Town's roadways. The Engineering Department is awaiting an updated report on pavement conditions and pavement management, a concern to all.

During the Parks and Open Space discussion the subcommittee heard about a number of park projects including Fisher Hill Reservoir Park, Waldstein Playground/Dean Park, Larz Anderson Park, and Warren Field. Each of these sites is about to undergo new construction or renovation.

Ms. Gallentine noted that changes undertaken during the past year in the Forestry division of the department had been successful, with 1584 of the 1706 work orders of April 2013 being closed out by the beginning of March 2014.

In response to comments from TMM Bruce Wolf, Ms. Gallentine agreed that some of the bridges along the Muddy River (and specifically the Longwood Avenue Bridge) are in need of repointing, but also noted that such a project would need to be undertaken collaboratively with the City of Boston. The Emerald Necklace Conservancy was mentioned as a possible funding source.

The Subcommittee, by a vote of 4-0, recommends **\$14,066,549** for the FY 15 DPW budget.

## **Water and Sewer Enterprise Fund - FY 15**

### **March 18, 2014**

The Water and Sewer Division is responsible for the operation and maintenance of the town's water, sanitary sewer, and storm water collection systems which include 135 miles of water mains, 10,770 service connections, 1500 Hydrants, 2,000 valves, 111 miles of sewer mains, and 117 miles of surface water drains and 3,296 catch basins. An Enterprise Fund established by Town Meeting in 2001, finances the Water and Sewer operations and fully reimburses the General Fund for expenses incurred, **including OPEBs**. As of FY 09, the cost of debt service is no longer reimbursed to the General Fund but is budgeted within the Fund itself.

The FY 15 budget (pages **IV 79-81**) proposes a decrease of 0.4% or \$102,076. These numbers are not final and await the setting of actual MWRA Water and sewer rates on June 1, 2014. Increases include an increase of \$33,500 in employee buyouts (sick, vacation and A-Day) and a collective bargaining increase of \$45,656.

Intergovernmental increases (MWRA) are estimated at an increase of 2.5% or \$459,027 for the MWRA and DEP assessment, while intragovernmental reimbursements (to the General Fund) decrease by \$157,776 (-7.1%). Debt service decreases by \$226,078 (-9.6%). The Reserve line item, representing 1% of the total Water and Sewer budget and held to cover revenue deficits, increases by \$34,125 (14.7%).

A complete accounting of increases and decreases can be found on page **II 20**.

The Capital Outlay Budget (page **II-28**) for the Water and Sewer Enterprise Fund (\$313,300) includes Water: 10 Leased PCs/Laptops \$2,300, one 18,000 GVW Cab and Chassis (\$81,000), Water Meters (\$25,000), and Construction Materials and Equipment (\$50,000). Sewer: Construction Materials and Equipment \$25,000, Maintenance Equipment \$15,000 and a 58,000 GVW Cab & Chassis combination sewer jet with vacuum body (second year of three year lease) \$81,000.

The Subcommittee, by a vote of 4-0, recommends approval of **\$26,826,419** for the FY 15 Water and Sewer Enterprise Fund Budget.

## **Advisory Committee Capital Subcommittee - March 18, 2014**

### **FY 15 Golf Enterprise Fund FY 15 General Fund Budget FY 15 Revolving Fund**

Recreation Department hearing held February 25, 2014 in Employees' Lounge, Town Hall starting at 5:30 pm.

Attending:

Carla Benka, Amy Hummel, Fred Levitan, Pamela Lodish from the Advisory Committee

Lisa Paradis, Director of Recreation; Alanna Manouk, Business Manager; Melissa Battite, Assistant Director of Recreation; Sean Cronin, Deputy Town Administrator; Paul Ford, Kevin Stokes, Kara Brewton, Alison Steinfeld, Chuck Flaherty, Mark Gray TMM p.7, Harry Friedman TMM p.12, Janet Gelbart, Clint Richmond, TMM p.6, Nancy O'Connor, Anthony Ansaldi

Refer to pages IV-107 – 120 and VI-8 (golf enterprise and recreation revolving funds)

The Recreation Department maintains three budgets: General Fund, the Golf Course Enterprise Fund and the Recreation Revolving Fund. The General Fund has two categories: Administration and Aquatics.

**The Golf Enterprise Fund** was the first topic of discussion. (IV-118 – IV-120). The finances of the Golf Course are accounted for in an Enterprise Fund. The Robert T. Lynch Municipal Golf Course at Putterham Meadows is an 18-hole public course that includes a practice putting green, practice chipping green, and teaching areas. The clubhouse adjacent to the course houses an administrative office, a large foyer with tables and chairs, and a full-service restaurant with both indoor and outdoor dining. A fully equipped pro-shop is also maintained at the course.

Lisa reminded the subcommittee that golf revenue is weather dependent. She also reported that merchandising in the pro shop is up 11% YTD. The Head Golf Professional/Operations Manager has revitalized the pro shop and Lisa expects the revenue to continue to rise. When they went to the Titleist brand, sales skyrocketed. Golf rounds in FY13 were up a little over 10% the previous year. In the prior year the revenue went up 13%.

A new rates schedule (see note at end of this write up) will help grow golf revenue. Improved course conditions also helps. Golf carts can more easily be on the course now that the drainage has been improved.

The next project will be to re-do hole 1 and face lift hole 2 and move T box up a bit. A wetlands area will be created on one side. The fairway will have slit drainage. New bunkers will be created. A 4-week turnaround is expected for these projects and they are currently out to bid.

The FY15 budget represents a \$121,923 (10.1%) increase. Personnel costs increased \$71,430 (18%) were for part-time salaries (\$59,610), an assumed 2% collective bargaining (\$8,999), steps \$2,170), and longevity \$650). The golf course will now have paid part-time rangers and starters and expects to get more productivity with more golfers on the course and an increase in the pace of play. When this happens, revenue will go up and more golfers can be accommodated, particularly during peak periods. The starters used to be volunteers. The increase of \$71,430 is for part-time seasonal personnel who will not be eligible for benefits. Volunteers received free rounds for their services. There will now be more slots for paid rounds. Pay for these part-time workers is between \$9 and 12.93 per hour. Employee golf rounds cost the golf course around \$28,000 in revenue.

Services increase \$2,240 (1.7%) for Other Equipment Rental/Leases (\$2,040), the Software Service Contract (\$250) and Cable TV (\$250), with a decrease in Technical Services (\$300). The \$76 (0.1%) increase in Utilities reflects a \$1,175 increase in Water/Sewer charges that is partially offset by decreases in Electricity (\$859) and Natural Gas (\$241). Capital increases \$5,120 (6.3%) and includes leased computers and leased landscaping equipment. Intragovernmental increases \$12,633 (8.4%) and Debt Service increases \$8,675 (4.8%).

We discussed the Vine Ripe Grill. The 3<sup>rd</sup> year of the contract ends March 31, 2014 and Lisa expects that the contract will be extended for another 3 years. They have completed some of the capital items that we discussed last year and made a financial commitment for a new grill. The course has a new beverage cart. Based on yearly revenue and the amount of money needed to upgrade the facility makes it not reasonable to bring the operation of the clubhouse in-house. Sales did increase last season.

**The FY15 General Fund Budget** (IV-107-111) reflects a \$10,581 (1%) increase.

The General Fund has two categories: Administration and Aquatics. The **Administration Sub-program** is responsible for the overall workings of the Department. The **Aquatics Sub-program** funds the complex that consists of three pools: a 42' x 75' lap pool, a 30' x 36' diving pool, and a 25' x 36' teaching pool.

The FY15 budget reflects a \$44,072 decrease (4.2%). Personnel decreases \$51,023 (7%) and includes the elimination of the Facilities Assistant (\$33,697), the transfer of the Director of Early Learning to the Revolving Fund (\$62,868) and the transfer of the Office Assistant from the Revolving to the General Fund (\$40,358). In addition, there are increases for Steps (\$4,759) and Longevity (\$425).

Services decrease \$18,100 (24.1%) in General Consulting Services (\$8,000), Advertising (\$5,271), Software Service Contract (\$5,000) and Printing Services (\$100) combined with increases in Office/Clerical Services (\$245) and Other Rentals and Leases (\$26). The increase in Supplies (\$20,500, 24.1%) is driven by Equipment Maintenance Supplies (\$19,000) along with Medical Supplies (\$1,000) and Office Supplies (\$500).

The increase in Utilities (\$4,130) is the result of transferring Water/Sewer charges for the Pool to the General Fund (\$17,261) combined with an increase in Electricity (\$206) and decreases in Natural Gas (\$12,799), Diesel (\$516) and Gasoline (\$21). Capital increases \$420 (11.7%) and funds existing computer leases plus two additional leases.

### **The FY15 Recreation Revolving Fund** (IV115-120)

The Recreation Revolving Fund supports the activities that take place at Brookline's indoor and outdoor facilities including the Soule Recreation Center, Soule Gym, Kirrane Skating Rink, Environmental Education Center, Kirrane Aquatics Center, Eliot Recreation Center, Tappan Street Facility, and the many outdoor facilities and leagues.

This Recreation Revolving Fund is not close to 100% cost recovery. We are all in at 77%, The Golf Course is at 100% cost recovery. Different sports and activities have differing rates of recovery. Soccer has a low overhead and huge number of participants – approximately 1,200 each season. There is a \$75 fee to participate and the net result is well over 100% cost recovery. The Recreation Department is maxed out by what they can charge. They

have worked to manage growth and expenses.

The FY15 budget reflects an increase of \$114,476 (4.4%). Personnel increases \$142,322 (8.8%) and includes Part Time Salaries (\$71,125), the transfer of the Director of Early Learning from the General Fund to Revolving (\$62,868), a new Assistant Rec Leader (\$43,736), an assumed 2% Collective Bargaining Reserve (\$34,141), Steps (\$4,502), Working Out of Class (\$3,175), and Longevity (\$74), combined with decreases due the elimination of the Activity Specialist/Soccer (\$45,888) and the transfer of the Senior Clerk Typist to the General Fund (\$31,411).

Services decrease \$20,815 (6.8%) due to decreases in Entertainers/Lecturers (\$33,028), Field Trips (\$19,059), Building Cleaning Service (\$15,244), General Consulting Services (\$9,237), Computer Hardware Rental (\$5,400), Professional / Technical Services (\$2,000), Building Maintenance (\$1,994), Subscriptions (\$1,350), Advertising (\$1,245), Other Equipment Rental/Leases (\$700), and Data Processing Repair and Maintenance (\$324). These decreases are partially offset by increases in Recreation Services (\$30,870), Athletic Event Officials (\$10,996), Credit Card Service Charges (\$11,700), Transportation Rentals/Leases (\$8,145), Skating Rink Repair and Maintenance (\$3,000), Other Rentals / Leases (\$2,192), Printing (\$600), Licenses (\$500), Internet Related Services (\$400), Laundry Services (\$275), and the Copier Equipment Rental/Lease (\$88).

Supplies increase \$19,024 (11.7%) for Recreation Supplies (\$9,043), Food Service Supplies (\$7,185), Meals and Receptions (\$3,580), Maintenance Supplies (\$2,500), Medical Supplies (\$2,440), and Data Processing Software (\$400) combined with decreases in Special Program Supplies (\$3,124), Food Non-Reimbursable (\$1,500), and Construction Supplies (\$1,500). The increase in Other (\$15,884, 49.9%) is in Education/Training/Conferences (\$11,623) and Professional Dues and Membership (\$5,911) partially offset by decreases in Travel (\$1,650). Utilities decrease \$40,437 (28.1%) primarily due to the transfer of Water/Sewer (\$23,233) and Electricity (\$13,659) charges to the General Fund, combined with a decrease in Natural Gas (\$3,545). Capital increases \$2,280 (48.5%) while the Intragovernmental Reimbursement decreases \$3,783 (1.1%).

Recreation and schools are in a partnership. The Soule Early Education program is a great program but its rates are too low. This program is open to residents only. There was a discussion of how the Rec. Dept. is slowly raising the rates but is trying not to put too much of a burden on Town residents all at once. There is a very long waiting list which indicated to



some of those present that there is room for larger increases in tuition.

The Recreation Department cooperates with other schools and organizations in Brookline. Brimmer and May uses our gym and we use their fields for lacrosse. We exchange fields with Beaver field for field. Park helps us out with fields for lacrosse and soccer. We also work with Dexter and BC.

2014-2015 rates at the golf course.

Weekday Rate	\$30
Weekday Senior Rate	\$27
Weekday Twilight Rate	\$27
Weekday 9-Hole Rate	\$25

Weekend Rate	\$42
Weekend Twilight Rate	\$30
Weekend 9-Holes Rate	\$28

Junior Daily Rate	\$18
Student Daily Rate	\$22
Sundown Rate	\$20
Winter Rate	\$24

9-Hole Cart Fee	\$14
18-Hole Cart Fee	\$19
9-Hole Pull Cart Fee	\$ 5
18-Hole Pull Cart Fee	\$ 8

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# TOWN of BROOKLINE

## Massachusetts

BOARD OF SELECTMEN  
MELVIN A. KLECKNER  
Town Administrator

TO: Board of Selectmen  
Harry Bohrs, Chair, Advisory Committee

FROM: Melvin A. Kleckner, Town Administrator

DATE: March 14, 2014

SUBJECT: Funding of FY 2015 Bridge Budget

Last week, the Town received outstanding news from the Group Insurance Commission (GIC) relating to premium rate increases for our employee health insurance program for Fiscal Year (FY) 2015. Primarily resulting from the Commission's insistence that insurance carriers adopt risk sharing and spending cap approaches, next year's average premium rate increase will be limited to about 1%. Obviously, different plans will increase (or decrease) at varying rates and the Town's actual budget increase depends upon enrollment patterns for specific plans. In addition, the Town must account for increases in employee participation, especially given the growth in employment related to school enrollment.

We had initially projected a budget increase for health insurance of \$1.5 million (6.1%), which resulted from an assumption of a 5% rate increase and 40 new enrollees. The actual increase using the final GIC rates will limit that budget increase to 1.5%, or \$366,283. This will result in a budget "savings" of \$1.13 million. Based on recent enrollment information and trends, we believe that some of these savings should be allocated to cover increased participation in the program. Still, the overall savings will total \$1 million. This substantially alters the framework of the Town's FY 2015 Budget. As you know, I identified \$1 million in new, non-property tax revenue from increases in parking fees/fines to support the "Bridge Budget", so called. This revenue was in anticipation of a more comprehensive funding package in FY 2016 to be developed by the Override Study Committee, which would involve a property tax increase (a Proposition 2½ Override), non-tax revenue increases and expenditure reductions/reforms. All of the \$1 million in new parking revenue was allocated to the School Department budget notwithstanding the traditional 50/50 revenue split that is part of the Town/School Partnership. With the availability of \$1 million in budget capacity from the lower GIC premiums, I am recommending that this capacity be used to support the School budget instead of implementing the increased parking rates.

cc: Alan Morse, Chair, School Committee  
William Lupini, Superintendent of Schools  
Dick Benka and Susan Wolf Ditkoff, Co-Chairs, Override Study Committee  
Sean Cronin, Deputy Town Administrator

## FUEL EFFICIENT VEHICLE POLICY

Effective Date	4/26/2011
Revisions	
Approval Date	4/26/2011
Effective Date	

## FUEL EFFICIENT VEHICLE POLICY

### DEFINITIONS

**Combined city and highway MPG (EPA Combined fuel economy):** Combined Fuel Economy means the fuel economy from driving a combination of 43% city and 57% highway miles and is calculated as follows:

$$=1/((0.43/\text{City MPG})+(0.57/\text{Highway MPG}))$$

**Drive System:** The manner in which mechanical power is directly transmitted from the drive shaft to the wheels. The following codes are used in the drive field:

- AWD = All Wheel Drive: four-wheel drive automatically controlled by the vehicle powertrain system
- 4WD = 4-Wheel Drive: driver selectable four-wheel drive with 2-wheel drive option
- 2WD = 2-Wheel Drive

**Heavy-duty truck:** A vehicle with a manufacturer's gross vehicle weight rating (GVWR) of more than 8,500 pounds.

### POLICY STATEMENT

In an effort to reduce the Town of Brookline's fuel consumption and energy costs, the Board of Selectmen hereby adopts a policy to purchase only fuel efficient vehicles to meet this goal.

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### PURPOSE

To establish a requirement that the Town of Brookline purchase only fuel efficient vehicles for municipal and school use whenever such vehicles are commercially available and practicable.

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## APPLICABILITY

This policy applies to all divisions and departments of the Town of Brookline.

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## GUIDELINES

All departments shall purchase only fuel-efficient vehicles for municipal use whenever such vehicles are commercially available and practicable.

The Town of Brookline will maintain an annual vehicle inventory for non-exempt vehicles and a plan for replacing these vehicles with vehicles that meet at a minimum the fuel efficiency ratings below. These fuel efficiency ratings shall be modified as needed to comply with the most recent guidance for Green Communities Criteria 4, as published by the Massachusetts Department of Energy Resources' Green Communities Division. This guidance must be checked for updates prior to ordering new vehicles. Based on the most recently published US Environmental Protection Agency data on fuel efficient vehicles, vehicles are to have a combined city and highway MPG no less than the following:

- 2 wheel drive car: 29 MPG
- 4 wheel drive car: 24 MPG
- 2 wheel drive small pick-up truck: 21 MPG
- 4 wheel drive small pick-up truck: 19 MPG
- 2 wheel drive standard pick-up truck: 17 MPG
- 4 wheel drive standard pick-up truck: 16 MPG
- 2 wheel drive sport utility vehicle: 21 MPG
- 4 wheel drive sport utility vehicle: 18 MPG

Hybrid or electric vehicles in these vehicles classes will meet these criteria

**\*NOTE:** The EPA maintains a database on vehicle fuel efficiency that is updated occasionally throughout the year, as new models are released. As increasing numbers of fuel efficient vehicle models are released, the minimum combined MPG requirements of the Green Communities Program may be revised. This policy may be updated from time to time to reflect any changes to the MPG requirements. The latest fuel efficiency MPG ratings are available through Massachusetts Department of Energy Resources Green Communities Program.

## Exemptions

- Heavy-duty vehicles. Examples include fire-trucks, ambulances, and some public works trucks that meet the definition of Heavy-duty vehicle.
- Police cruisers, passenger vans and cargo vans are exempt from this criterion as fuel efficient models are not currently available. However, we commit to purchasing fuel efficient police cruisers, passenger vans and cargo vans when they become commercially available. Police and fire department administrative vehicles are NOT exempt and must meet fuel efficient requirements.

## Inventory

The following information shall be included in a vehicle inventory list and said list shall be updated on an annual basis:

Model	Make	Model Year	Year Purchased	Drive System	Weight Class	MPG	Annual Miles Driven	Total Fuel Consumption	Vehicle Function

See ATTACHMENT A for a complete vehicle inventory indicating exempt and non-exempt vehicles for the Town of Brookline.

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## FUEL EFFICIENT VEHICLE REPLACEMENT PLAN

The Town of Brookline shall develop a plan to replace all non-exempt vehicles with fuel efficient vehicles as defined above. Said plan shall outline the process by which the Town of Brookline will replace vehicles, set goals for when the existing fleet will be replaced and review said plan on an annual basis.

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## QUESTIONS / ENFORCEMENT

All inquiries should be directed to the Chief Procurement Officer or the Vehicle Fleet Manager. This policy is enforced by the Town Administrator and/or his designee(s).

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## RELATED INFORMATION:

*United States Environmental Protection Agency, Green Vehicle Guide*

- <http://tiny.cc/greenEPA>

*Massachusetts Department of Energy Resources, Green Communities Program*

- Green Communities Criteria: <http://tiny.cc/criteria>
- List of Fuel Efficient Vehicles: <http://tiny.cc/vehicles>



## WARRANT

### THE COMMONWEALTH OF MASSACHUSETTS TOWN OF BROOKLINE ANNUAL TOWN MEETING

Norfolk, ss

To Any Constable of the Town of Brookline

Greetings:

In the name of the Commonwealth of Massachusetts, you are hereby required to NOTIFY and WARN the Inhabitants of the TOWN OF BROOKLINE, qualified to vote at elections to meet at the High School Auditorium in said Brookline on TUESDAY, the TWENTY-SEVENTH day of MAY, 2014 at 7:00 o'clock in the evening for the Annual Town Meeting at which time and place the following articles are to be acted upon and determined by the representative town meeting:

#### **ARTICLE 1**

Submitted by: Board of Selectmen

To see if the Town will establish that the number of Measurers of Wood and Bark be two, to be appointed by the Selectmen, or act on anything relative thereto.

#### **ARTICLE 2**

Submitted by: Human Resources

To see if the Town will raise and appropriate, or appropriate from available funds, a sum or sums of money to fund the cost items in collective bargaining agreements between the Town and various employee unions; fund wage and salary increases for employees not included in the collective bargaining agreements; and amend the Classification and Pay Plans of the Town; or act on anything relative thereto.

#### **ARTICLE 3**

Submitted by: Treasurer/Collector

To see if the Town will authorize the Town Treasurer, with the approval of the Selectmen, to enter into Compensating Balance Agreement(s) for FY2015 in accordance with General Laws Chapter 44, Section 53F, or act on anything relative thereto.

#### **ARTICLE 4**

Submitted by: Board of Selectmen

To see if the Town will authorize the Comptroller to close out either all or a portion of the unexpended balances in certain Special Appropriations and return said sums to the Surplus Revenue accounts, or act on anything relative thereto.

## **ARTICLE 5**

Submitted by: Board of Selectmen

To see if the Town will, in accordance with General Laws, Chapter 44, Section 64, authorize the payment of one or more of the bills of the previous years, which may be legally unenforceable due to the insufficiency of the appropriations therefore, and appropriate from available funds, a sum or sums of money therefore, or act on anything relative thereto.

## **ARTICLE 6**

Submitted by: Board of Assessors

To see if the Town will elect to establish an additional property tax exemption for fiscal year 2015 which shall be uniform for all exemptions, in accordance with Section 4 of Chapter 73 of the Acts of 1986, as amended by Chapter 126 of the Acts of 1988, and accept said Section 4, as amended, or act on anything relative thereto.

## **ARTICLE 7**

Submitted by: Board of Selectmen

To see if the Town will:

- (A) Raise and appropriate or appropriate from available funds additional funds to the various accounts in the fiscal year 2014 budget or transfer funds between said accounts;
- (B) Appropriate a sum of money, to be expended under the direction of the Building Commission, with any necessary contracts to be approved by the Board of Selectmen and the School Committee, for remodeling, reconstructing, or making extraordinary repairs to and for additions to the Lawrence School.
- (C) And determine whether such appropriations shall be raised by taxation, transferred from available funds, provided by borrowing or provided by any combination of the foregoing; and authorize the Board of Selectmen, except in the case of the School Department Budget, and with regard to the School Department, the School Committee, to apply for, accept and expend grants and aid from both federal and state sources and agencies for any of the purposes aforesaid.

or act on anything relative thereto.

## **ARTICLE 8**

Submitted by: Advisory Committee

To see if the Town will:

A.) Fiscal Year 2015 Budget

Appropriate the sums, or any other sum or sums, requested or proposed by the Selectmen or by any other officer, board or committee, for the fiscal year 2015 budget, including without limiting the foregoing, all town expenses and purposes, debt and interest, out of state travel, operating expenses, and fix the salaries of all elected officers as provided for in General Laws, Chapter 41, Section 108; authorize the leasing, leasing with the option to purchase, or installment purchase of equipment; stabilization fund as provided for in General Laws Chapter 40, Section 5B; authorize the continuation of all revolving funds in accordance with G.L. Chapter 44, Section 53E½, and all Enterprise Funds in accordance with G.L. Chapter 44, Section 53F½, and as otherwise authorized; and provide for a reserve fund.

B.) Fiscal Year 2015 Special Appropriations

Appropriate sums of money for the following special purposes:

- 1.) Appropriate \$270,000, or any other sum, to be expended under the direction of the Chief Information Officer, with any necessary contracts to be approved by the Board of Selectmen, for the enhancement of town-wide hardware and software.
- 2.) Appropriate \$65,000, or any other sum, to be expended under the direction of the Director of Planning and Community Development, with any necessary contracts to be approved by the Board of Selectmen and the Economic Development Advisory Board, for commercial area improvements.
- 3.) Appropriate \$580,000, or any other sum, to be expended under the direction of the Fire Chief, with any necessary contracts to be approved by the Board of Selectmen, for the replacement of Fire Engine #5.
- 4.) Appropriate \$325,000, or any other sum, to be expended under the direction of the Building Commission, with any necessary contracts to be approved by the Board of Selectmen, for making extraordinary repairs to Fire Stations.
- 5.) Appropriate \$40,000, or any other sum, to be expended under the direction of the Building Commission, with any necessary contracts to be approved by the Board of Selectmen, for a feasibility study of the construction of a fleet maintenance facility for the Fire Department and for renovations to the training facility located at Fire Station #6.
- 6.) Appropriate \$50,000, or any other sum, to be expended under the direction of the Building Commission, with any necessary contracts to be approved by the Board of Selectmen and the Library Trustees, for development of a written

building program and a feasibility / concept study of renovations to the Coolidge Corner Library.

- 7.) Appropriate \$30,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts to be approved by the Board of Selectmen, for bicycle access improvements.
- 8.) Appropriate \$50,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts to be approved by the Board of Selectmen, for a study of MBTA Traffic Signalization.
- 9.) Appropriate \$1,550,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts to be approved by the Board of Selectmen, for the rehabilitation of streets.
- 10.) Appropriate \$290,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts to be approved by the Board of Selectmen, for the rehabilitation of sidewalks.
- 11.) Appropriate \$515,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts to be approved by the Board of Selectmen, for the conversion of Town-owned streetlights to LED's.
- 12.) Appropriate \$90,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts to be approved by the Board of Selectmen and the Park and Recreation Commission, for the design of the renovation of Pierce playground.
- 13.) Appropriate \$295,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts to be approved by the Board of Selectmen, for the renovation of playground equipment, fields, and fencing.
- 14.) Appropriate \$85,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts to be approved by the Board of Selectmen, for the rehabilitation of Town and School grounds.
- 15.) Appropriate \$170,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts to be approved by the Board of Selectmen and the Tree Planting Committee, for the removal and replacement of trees.
- 16.) Appropriate from the Sale of Lots special revenue fund (SW01) \$100,000, or any other sum, to be expended under the direction of the Commissioner of



Public Works, with any necessary contracts to be approved by the Board of Selectmen and the Cemetery Trustees, for the rehabilitation of roadways within Walnut Hills Cemetery.

- 17.) Appropriate \$60,000, or any other sum, to be expended under the direction of the Chief Procurement Officer, with any necessary contracts to be approved by the Board of Selectmen and the School Committee, for school furniture upgrades.
- 18.) Appropriate \$320,000, or any other sum, to be expended under the direction of the Chief Information Officer, with any necessary contracts to be approved by the Board of Selectmen and the School Committee, for costs associated with mobile carts and mounted projection systems in the Brookline Public Schools.
- 19.) Appropriate \$65,000, or any other sum, to be expended under the direction of the Building Commissioner, with any necessary contracts to be approved by the Board of Selectmen, for ADA renovations to Town and School facilities.
- 20.) Appropriate \$250,000, or any other sum, to be expended under the direction of the Building Commission, with any necessary contracts to be approved by the Board of Selectmen and, with respect to School Buildings, by the School Committee, for improvements to elevators in Town and School facilities.
- 21.) Appropriate \$160,000, or any other sum, to be expended under the direction of the Building Commissioner, with any necessary contracts to be approved by the Board of Selectmen, for energy conservation projects in Town and School facilities.
- 22.) Appropriate \$730,000, or any other sum, to be expended under the direction of the Building Commission, with any necessary contracts to be approved by the Board of Selectmen and, with respect to School Buildings, by the School Committee, for building envelope / fenestration repairs to Town and School facilities.
- 23.) Appropriate \$375,000, or any other sum, to be expended under the direction of the Building Commission, with any necessary contracts to be approved by the Board of Selectmen and, with respect to School Buildings, by the School Committee, for roof repairs and replacements in Town and School facilities.
- 24.) Appropriate \$300,000, or any other sum, to be expended under the direction of the Building Commissioner, with any necessary contracts to be approved by the Board of Selectmen and, with respect to School Buildings, by the School Committee, for improvements to life safety systems and building security in Town and School facilities.
- 25.) Appropriate, borrow or transfer from available funds, \$1,000,000, or any other sum, to be expended under the direction of the Building Commission, with the

approval of the Board of Selectman and the School Committee for a feasibility study to understand the extent of facility and programming deficiencies at the Driscoll School located at 64 Westbourne Terrace in the Town of Brookline, Massachusetts and as further described as Parcel I.D. No. 092-18-00 in the Town of Brookline Assessor's map and database and to explore the formulation of a solution to those deficiencies, for which feasibility study the Town may be eligible for a grant from the Massachusetts School Building Authority. The MSBA's grant program is a non-entitlement, discretionary program based on need, as determined by the MSBA, and any costs the Town incurs in connection with the feasibility study in excess of any grant approved by and received from the MSBA shall be the sole responsibility of the Town.

- 26.) Appropriate \$1,750,000, or any other sum, to be expended under the direction of the Building Commission, with any necessary contracts to be approved by the Board of Selectmen and the School Committee, for the expansion of classroom capacity in various schools.
- 27.) Appropriate \$900,000, or any other sum, to be expended under the direction of the Fire Chief, with any necessary contracts to be approved by the Board of Selectmen, for the replacement of Fire Ladder #2.
- 28.) Appropriate \$4,600,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts to be approved by the Board of Selectmen, for the capping of the Newton St. rear landfill.
- 29.) Appropriate \$1,200,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, to pay costs of (i) traffic circulation improvements in Brookline Village and (ii) Riverway Park pedestrian and bicycle crossing improvements at Route 9 and the Riverway, including the payment of any and all other costs incidental and related thereto; to determine whether this amount shall be raised by taxation, transfer from available funds, borrowing or otherwise; to authorize the Selectmen to apply for, accept and expend any grants from any source whatsoever that may be available to pay any portion of this project, or to take any other action relative thereto.

C.)       Funding

And determine whether such appropriations shall be raised by taxation, transferred from available funds, borrowed or provided by any combination of the foregoing, and authorize the leasing, leasing with an option to purchase, or the installment purchase of any equipment or any capital items; and authorize the Board of Selectmen, except in the case of the School Department Budget, and with regard to the School Department, the School Committee, to apply for, accept and expend grants, gifts, reimbursements, and aid from both federal, state, and other sources

and agencies for any of the purposes noted in this Article, or act on anything relative thereto.

## **ARTICLE 9**

Submitted by: Arthur Wellington Conquest III and Brooks Ames

To see if the Town will vote to adopt a local option to increase qualifying gross receipts under Massachusetts General Laws chapter 59, section 5, Clause 41A from \$40,000 to the income limit established under G.L. c. 62, section 6(k) for the “circuit breaker” state income tax credit for single seniors who are not head of households.

To see if the Town will reduce the interest rate of that portion of the real estate taxes owed to the Town pursuant to the provisions of Massachusetts General Laws 59, Section 5, Clause 41, the Senior Real Estate Tax Deferral, from 5% to 3%.

Or act on anything relative thereto.

## **ARTICLE 10**

Submitted by: Selectmen’s Diversity, Inclusion, and Affirmative Action Committee

To see if the Town will revoke Article 3.14 of the Town By-laws and replace it with the following version of a new Article 3.14,

or act on anything relative thereto,

## **DIVERSITY, INCLUSION AND COMMUNITY RELATIONS COMMISSION AND DEPARTMENT**

### **SECTION 3.14.1**

#### **ESTABLISHMENT AND MISSION**

This by-law establishes the Diversity, Inclusion, and Community Relations Commission (the “Commission”) and the Diversity, Inclusion, and Community Relations Department (the “Department”).

Valuing diversity and inclusion in and for the Brookline community, the Commission, in coordination with the Department, aims to support a welcoming environment by encouraging cooperation, tolerance, and respect among and by all persons who come in contact with the Town of Brookline (“the Town”), including residents, visitors, persons passing through the Town, employers, employees, and job applicants, and by advancing, promoting and advocating for the human and civil rights of all through education, awareness, outreach and advocacy.

The mission of the Commission and the goal of the Town shall be to strive for a community characterized by the values of inclusion. The Town believes that inclusion will provide opportunities and incentives to all who touch Brookline to offer their energy,

creativity, knowledge, and experiences to the community and to all civic engagements, including town government; and that inclusion is, therefore, a critically important government interest of the Town.

Inclusion is defined as actively pursuing goals of including, integrating, engaging, and welcoming into the community all persons who come in contact with the Town regardless of their race, color, ethnicity, gender, sexual orientation, gender identity or expression, disability, age, religion, creed, ancestry, national origin, military or veteran status, genetic information, marital status, receipt of public benefits (including housing subsidies), or family status (e.g. because one has or doesn't have children) (herein, "Brookline Protected Classes").

In striving to achieve the goal of inclusion, the Commission shall be guided by the following general principles: (1) the foundation of community is strong and positive community relations among and between all groups and individuals in the community, regardless of their membership in a Brookline Protected Class; (2) that the substance of community is the recognition of human rights principles as applicable to all persons who come in contact with the Town; (3) that justice in a community requires, at a minimum, monitoring and enforcing civil rights laws as they apply to all persons who come in contact with the Town; and (4) that the commitment of the Town to these principles requires vigorous affirmative steps to carry out the word and spirit of the foregoing.

The Commission shall consist of eleven (11) to fifteen (15) residents of the Town or students who attend a Brookline Public School, who shall be called Commissioners. Commissioners shall be appointed by the Board of Selectmen (the "BOS") and shall hold office for a period of three (3) years except that of the eleven (11) to fifteen (15) Commissioners first appointed; three or 1/3 of the total (3-5) shall be appointed for one (1) year, four or 1/3 of the total shall be appointed for two (2) years, and four or 1/3 of the total shall be appointed for three (3) years. The term of office of the Commissioners shall expire on August 31 of the appropriate year. The BOS may expand the size of the Commission by adding additional non-voting auxiliary members as it determines to be necessary, which may include youth who reside in Brookline or attend a Brookline Public School. The BOS shall select one of its members to serve *ex officio* as a non-voting member of the Commission. A quorum of the Commission shall consist of a majority of appointed voting Commissioners.

The BOS shall seek a diverse and inclusive group of candidates for the Commission, which may include youth. Candidates for Commissioner shall be qualified for such appointment by virtue of demonstrated relevant and significant knowledge, life experience, or training. The composition of the Commission shall include persons with the types of such knowledge, experience, or training as is necessary to enable the Commission to perform the duties assigned to it by this Bylaw. All Commissioners shall serve without compensation.

In the event of the discontinuance of the service of a Commissioner due to death or resignation, such Commissioner's successor shall be appointed to serve the unexpired period of the term of said Commissioner. The Commission may recommend to the BOS

candidates to fill such vacancies. The current Human Relations/Youth Resources Commission shall be dissolved at the time that appointments are made for the Commission established by this Bylaw. However, the current Human Relations/Youth Resources Commissioners may be considered for appointment to the new Commission.

#### SECTION 3.14.2

##### APPOINTMENT , ROLES AND RESPONSIBILITIES OF THE DIRECTOR OF THE DIVERSITY, INCLUSION AND COMMUNITY RELATIONS DIVISION AND THE CHIEF DIVERSITY OFFICER

The Town Administrator, in consultation with the Commission, shall recommend to the BOS for appointment a professional in the field of human relations or similar relevant field of knowledge, who shall be known as the Director of the Diversity, Inclusion and Community Relations Division (the “Director”). The Director may also serve as the Chief Diversity Officer (“CDO”) for the Town. The Town Administrator, in consultation with the Commission may alternatively recommend to the BOS the appointment of a separate person to serve as CDO.

The Director shall offer professional and administrative support to the Commission in the administration of its functions and policies under this Bylaw or any other Bylaw giving the Commission responsibilities. If needed, the Department Head shall ask for additional assistance to carry out that person's duties.

The CDO shall report to the Town Administrator. The CDO may bring a matter directly to the attention of the BOS in the event that person believes, in their professional judgment, that a particular situation so warrants. The CDO may attend meetings held by the Town Administrator with Department Heads and work with the Human Resources office to promote diversity and inclusion.

The CDO shall serve in the role of ombudsperson to provide information and guidance and dispute resolution services to all persons who come in contact with the Town who feel that they have been discriminated against or treated unfairly due to their membership in a Brookline Protected Class, in relation to Fair Housing or Contracting issues, interactions with businesses or institutions in the Town, or interactions with the Town and/or employees of the Town.

The CDO shall be responsible, with the advice and counsel of the Commission, the Human Resources Director, and the Human Resources Board, for the preparation and submission to the BOS of a recommended diversity and inclusion policy for the Town, including equal employment opportunity and affirmative action, and recommended implementation procedures. The policy shall address hiring, retention, and promotion, and steps to ensure a work environment that is friendly to diversity and inclusion.

The CDO shall respect the rights to privacy and confidentiality of all individuals to the fullest extent required by law. The CDO may attempt to mediate disputes/complaints and/or to refer such complainants to the Massachusetts Commission Against Discrimination, the Equal Employment Opportunity Commission, the Office of Town

Counsel, or such other body as the CDO deems appropriate. The CDO will report on these incidents to the Commission in terms of issues and trends but shall show full respect for the rights to privacy and confidentiality of the individuals involved to the fullest extent required by law. In the event that a person who come in contact with the Town, except for employees of the Town, chooses to bring a complaint to the Commission after having sought the services of the CDO in said officer's role as an ombudsperson, the CDO may discuss the case in general terms with the Commission (see section 3.14.3 (A)(v)).

The CDO shall also serve as an ombudsperson for employees of the Town if they feel they have been discriminated against or treated unfairly on the basis of membership in a Brookline Protected Class. The CDO may attempt to mediate such disputes or refer such employees to the Human Resources Office, the Massachusetts Commission Against Discrimination, the Equal Employment Opportunity Commission, their union representative, and/or such other body that the CDO deems appropriate. The CDO shall hold all such Town/employee matters in confidence and shall respect the privacy rights of any such individuals but may discuss, in general terms, the problems or issues that such individual cases suggest with the Commission, provided however, that there is no ongoing or threatened litigation concerning the matter, and doing so does not violate any persons rights to privacy.

### SECTION 3.14.3

#### POWERS AND DUTIES OF THE COMMISSION

(A) To implement the Mission of the Commission and the Division, the Commission, with the assistance of the Director and the Director's staff, shall have the following responsibilities:

- (i) Strive to eliminate discriminatory barriers to jobs, education, and housing opportunities within the Town and work to increase the capacity of public and private institutions to respond to discrimination against individuals in the Town based on their membership in a Brookline Protected Class;
- (ii) Enhance communications across and among the community to promote awareness, understanding and the value of cultural differences, and create common ground for efforts toward public order and social justice;
- (iii) Work with the BOS, the Town's Human Resources Office, the School Committee, and other Town departments, commissions, boards, and committees to develop commitments and meaningful steps to increase diversity and inclusion, awareness, and sensitivity to civil and human rights in all departments and agencies of Town government;
- (iv) Provide advice and counsel to the CDO on the preparation of a diversity and inclusion policy for recommendation to the BOS, including equal employment opportunity and affirmative action procedures, or amendments or revisions thereto; make suggestions, through the CDO to the Human Resources Director,

the Human Resources Board, and the School Committee on the implementation of the diversity, inclusion, equal employment opportunity, and affirmative action policy;

**(v) Complaints Against the Town:** Receive complaints, through the CDO, against the Town, its employees, agencies, or officials concerning allegations of discrimination or bias from all persons who come in contact with the Town, except Town employees (see section 3.14.2), and initiate preliminary review of the alleged facts, without drawing any legal conclusions, concerning allegations of discrimination or bias against a member of a Brookline Protected Class, by any Town agency, Town official or employee; and after an affirmative vote by a majority of the Commission (1) present the alleged facts to the Town Administrator, the BOS, and/or the School Superintendent for further action or (2) provide the complainant with information on their options to bring proceedings at the Massachusetts Commission on Discrimination or other appropriate federal, state, or local agencies. This bylaw does not preclude any complainant from alternatively or additionally using other complaint procedures, such as the Police Department's Citizen Complaint Procedure or the Human Resources Offices procedures;

**(vi) Other Complaints:** Receive complaints, according to procedures developed by the Commission and as approved by the BOS, and initiate preliminary review of the facts, without drawing any legal conclusions, from any person who comes in contact with the Town, concerning allegations of discrimination or bias against a member of a Brookline Protected Class. The Commission shall also have the authority, in its discretion, to take one or more of the following actions:

- (1) Provide the complainant with information about their options to bring proceedings at the Massachusetts Commission on Discrimination or other appropriate federal, state, or local agency;
- (2) Refer the complainant and any other parties to the complaint to the CDO acting as ombudsperson or to a local or regional mediation service;
- (3) Present any results of preliminary review of the alleged facts to the Town Administrator, the BOS, and/or the School Superintendent, and School Committee, in an appropriate case, for action;

**(vii)** The Commission shall develop, to the extent permissible by law, a log for the complaints referred to in subsections (v) and (vi) above, provided that such publication contains public record information only and does not violate anyone's right to privacy, and the Commission shall compile and maintain statistical records regarding the nature of complaints, types of incidents, number and types of complaints, and other pertinent information, without identifying specific individuals, and include such information in the Annual Report filed with the Board pursuant to Section 3.14.4 of this Bylaw.

(viii) Develop official forms for the filing of complaints under paragraphs (v) and (vi) above and also procedures for the receipt and follow-up by the Commission of such complaints;

(ix) Carry out the responsibilities and duties given to the Commission by rules or regulations, if any, promulgated under Section 3.14.4 of this Bylaw in relation to Fair Housing;

(x) With respect to any complaints or patterns of complaints involving the civil or human rights of any persons who come in contact with the Town, work with the CDO, in such officer's role as ombudsperson to facilitate necessary changes that will reduce and eliminate violations of rights;

(xi) Institute and assist in the development of educational programs to further community relations and understanding among all persons in the Town, including Town employees;

(xii) Serve as an advocate for youth on issues arising in the schools and the community, concerning diversity and inclusion, and encourage public and private agencies to respond to those youth needs.

(B) To carry out the foregoing responsibilities, the Commission is authorized to work with community organizations, government and nonprofit agencies, educational institutions, persons with relevant expertise, and others to:

(i) Develop educational programs and campaigns to increase awareness of human and civil rights, advance diversity and inclusion, eliminate discrimination, and ensure that the human and civil rights of all persons are protected and assist in the development of educational programs to further community relations and understanding among all people, including employees of all departments and agencies within the Town;

(ii) Conduct or receive research in the field of human relations and issue reports and publications on its findings or, where appropriate, submit local or state-wide proposed legislation, after approval by the BOS and review by Town Counsel, to further human and civil rights of all persons who come in contact with the Town, provided that the Commission shall evaluate all such research conducted or received for its relevancy and validity and for its openness to diverse viewpoints and perspectives;

(iii) Receive and review information on trends and developments in youth research, services, and programs, both generally and as they relate to youth who are members of a Brookline Protected Class, and consider the applicability of such research, services, or programs to Brookline, provided that the Commission shall evaluate all such research conducted or received for its relevancy and validity and for its openness to diverse viewpoints and perspectives;



(iv) Do anything else deemed appropriate in the furtherance of its general duties and that are not inconsistent with its Mission, the State Constitution and laws, or the Town Bylaws.

(C) On a bi-annual basis, prepare written organizational goals for the Commission (the "Commission's Goals") that are (i) specific, (ii) measurable, (iii) attainable with the resources and personnel of the Commission, (iv) relevant to the mission of the Commission, (v) time bound as either short term or long term, and (vi) capable of being evaluated on a continuing basis and at the next goal setting point. The Commission's Goals shall be submitted to the BOS at a public meeting and posted on the Town's website. The Commission shall receive and consider the comments of the BOS at the public meeting and shall also receive and consider written comments from the community on the Commission's Goals.

#### SECTION 3.14.4

##### RULES AND REGULATIONS

In order to carry out the purposes and provisions of this Bylaw, the Commission, with the approval of the BOS, after review by the Town Counsel, shall adopt procedural rules and regulations as necessary to guide it in carrying out its responsibilities. Such rules and regulations shall require that actions by the Commission be taken by a quorum or larger vote of the Commissioners and shall include procedures for holding regular public meetings, including at least one public hearing annually to apprise the public on the status of civil rights, diversity, inclusion and community relations in the Town and to hear the concerns of the public on those issues; and may establish procedures and rules and regulations to carry out its responsibilities with respect to Fair Housing. Such rules and regulations may also provide for the governance of the Commission with respect to matters such as the appointments of subcommittees as necessary to deal with specific community issues or concerns; and may provide procedures and standards for recommending to the BOS the removal of a Commissioner for cause, including missing a specified number of meetings.

#### SECTION 3.14.5

##### INFORMATION, COOPERATION, AND DIALOGUE

The Town Administrator shall be notified of all complaints that the Commission receives from any persons who come in contact with the Town related to discrimination or unfair treatment due to their status as a member of a Brookline Protected Class. In the event that such complaints fall within the purview of the Superintendent of Schools, the Superintendent shall also be notified. All departments and agencies in the Town shall cooperate fully with the Commission's reasonable requests for information concerning such complaints and when appropriate engage with the Commission in a dialogue on them. All such requests and dialogue shall respect and protect, to the fullest extent possible, the privacy of all involved and shall comply with all local, state and federal laws.

The Director of Human Resources shall annually present a report to the Commission concerning the Town's statistics on employment diversity in Town departments and staff, as well as the efforts of the Town to increase the employment diversity of Town departments and staff. The School Superintendent and the Library Director, or their designees, shall annually present a report to the Commission concerning their statistics on employment diversity, including but not limited to the most recently completed EEO-5 form, and on any other matters that would be relevant to the Commission's mission. The Police Chief shall present a report to the Commission on other police matters that touch on the Commission's mission. The Commission may respond to such reports through dialogue and/or through written reports; and all Town departments, including the Brookline Public Schools, are encouraged to cooperate with the Commission as it reasonably requests.

#### SECTION 3.14.6 REPORT

The Commission shall submit an annual report to the BOS, the School Committee, and the Board of Library Trustees, detailing its activities and the results thereof. The Annual Report shall include (i) a review of the implementation of the diversity and inclusion policy by the Town, (ii) the Commission's Goals and a report on the extent to which the goals have been achieved to that point, (iii) a review of reports received by the Commission from the Director of Human Resources, the School Superintendent, the Library Director, and other Town departments or agencies, (iv) a narrative discussion of any impediments to the achievement of the Commission's Goals and the implementation of the diversity and inclusion policy, and (v) recommendations of ways that such impediments could be removed. A synopsis of such report shall be published as part of the Annual Report of the Town.

#### SECTION 3.14.7 FIVE YEAR REVIEW

Beginning no later than July 1, 2019 and at least every five years thereafter, the Commission shall review this Bylaw and any other related Town bylaws, in consultation with other pertinent departments, and suggest changes if necessary.

#### SECTION 3.14.8 SEVERABILITY

The provisions of this Bylaw shall be deemed to be severable. Should any of its provisions be held to be invalid or unconstitutional, the remainder of this Bylaw shall continue to be in full force and effect.

### **ARTICLE 11**

Submitted by: Neighborhood Conservation District Commission

To see if the Town will amend Article 5.10 of the Town's By-laws, Neighborhood Conservation District By-law, in the following manner:

By adding a Section 5.10.3.d.2 to establish the Greater Toxteth Neighborhood Conservation District:

There shall be a Neighborhood Conservation District, to be entitled the “Greater Toxteth Neighborhood Conservation District” the boundaries of which are shown on the map entitled “Greater Toxteth Neighborhood Conservation District”, a copy of which is on file with the Town Clerk’s office, which is hereby declared to be a part of this By-law.

The purpose of the Greater Toxteth Neighborhood Conservation District is to preserve and protect the unique character of the neighborhood and the individual properties and buildings located therein in ways that are not typically protected by the Zoning Bylaws or other By-laws of the Town of Brookline.

Neighborhood Characteristics. The pattern of development of the Greater Toxteth Neighborhood Conservation District includes a generous streetscape with mature plantings and a similarity of scale and configuration of homes. Most homes sit back farther from the street than is required under current zoning and cover less of their lots than is permitted by underlying zoning. This pattern contributes to a sense of open space and a wider street, with homes still close enough to actively contribute to the neighborhood’s street-level social dynamic. The neighborhood is predominately single or two-family three storied structures, though they appear to be 2½ stories given the gambrel, cross-gabled, and mansard roof lines that provide spaciousness and light in spite of the close proximity of abutting houses, thereby mitigating the effect of the upper stories on abutting properties. Homes are generally respectfully positioned on their lots, address the street, and most have open porches that promote an active transition from the home to the street, which enhances the neighborhood’s social fabric and fosters street level sociability. Broad backyard view corridors are broken only by mature trees and fences. While nestled in a rather dense area, the neighborhood has an abundance of open and green space and many mature trees – traditional characteristics found in Brookline – that soften the near-urban locale. There are a variety of architectural styles that coexist to create a pleasing liveliness that functions as a cohesive neighborhood. The scale, massing and configuration of homes in the neighborhood collectively contribute to a commonality of pattern that is unique relative to the surrounding neighborhoods (such as Coolidge Corner, Brookline Village and the Harvard Street corridor).

Special Definitions. With regard to the Greater Toxteth Neighborhood Conservation District, the following terms shall have the meaning given to them below.

- i. “Habitable Space” shall mean space in a building or structure suitable for living, sleeping, eating or cooking; otherwise used for human occupancy; or finished or built out and meeting the State Building Code requirements for height, light, ventilation and egress for human habitation or occupancy. Bathrooms, toilet compartments, closets, halls, storage or utility space and similar areas shall not be excluded from Habitable Space solely because they are excluded from the definition of habitable space under the State Building Code.
- ii. “Base-line Living Area” shall mean the amount of Habitable Space above grade in a building as of the Effective Date of this legislation. The Neighborhood

- Conservation District Commission shall use reasonable efforts to create and maintain a record of such baseline Habitable Space for each property in the district. The Commission may use Assessor records, building permits and such other Town records and information as it deems appropriate to create such record. In the event of demolition or destruction of a building that was existing as of the Effective Date, the Base-line Living Area of such building shall be used as the measurement for any new construction on that property.
- iii. “Reviewable Project” shall have the meaning given to it in the section below entitled “Projects Subject To Review.”
  - iv. “Front Plane” shall mean the forward most plane of the main structure façade on any above grade floor containing Habitable Space.
  - v. “Effective Date” shall mean the date that this Bylaw amendment is approved at Town Meeting and becomes effective.

Projects Subject To Review. Section 5.10.2(m) sets forth the activities that are reviewable in a neighborhood conservation district unless otherwise exempted. In the Greater Toxteth Neighborhood Conservation District, only the following activities shall be reviewable. The term Reviewable Project, when used in this Section 5.10.3(d)(2) shall refer only to the following activities.

- i. Any Addition or Alteration to the existing exterior envelope of a building that, for any single project, increases the existing Habitable Space above grade (including new Habitable Space created by adding dormers to the roof or new stories) by 15% or more of the applicable Base-line Living Area. Multiple Additions or Alterations undertaken under separate building permits maybe deemed by the Commission to constitute a single project if the Commission reasonably determines that the intent is to break a larger project into smaller pieces in order to avoid being subject to review.
- ii. Any Addition or Alteration to the existing exterior envelope of a building that, when aggregated with any prior such projects, would have the effect of increasing the Habitable Space above grade (including new Habitable Space created by adding dormers to the roof or new stories) by 33% or more over the Base-line Living Area. The purpose of this section is to prevent property owners from undertaking multiple smaller projects over time that would have the cumulative effect of adding volume to building and/or structures that is inconsistent in scale, massing and/or siting with other buildings in the district.
- iii. Construction of a new building or other improvements (whether constructed on vacant land or on land where prior improvements have been demolished), and construction to replace buildings or other improvements destroyed by fire or other casualty.
- iv. The addition of or to a front porch, or the enclosure of any portion thereof (such as to create a vestibule or a partially or fully enclosed porch) on an existing building.
- v. Any Addition or Alteration of an existing building or other improvements, or construction of any new or replacement buildings or other improvements (including the enclosure of any existing or newly constructed porch) that would have the effect of advancing the Front Plane of the building toward the street than the condition existing as of the Effective Date.

Projects Exempt From Review. The Reviewable Projects set forth above shall be the only projects subject to review in the Greater Toxteth Neighborhood Conservation District. All other activities listed in the definition of “Reviewable Project” at Section 5.10.2(m) of these By-laws, when undertaken as an independent project, shall be exempt from review, provided, however, that such activities may be considered and be subject to review as part of the review process for a Reviewable Project to the extent that such activities are addressed by guidelines set forth below. In addition, all projects or activities listed in Section 5.10.6(c) shall be exempt from review, including renovations to the interior of a structure that do not impact the exterior of the structure.

Activities affecting the following elements shall be exempt from review when undertaken as an independent project, but such activities may be subject to review as part of the review process for a Reviewable Project to the extent that such activities are addressed by the guidelines set forth below.

- i. Terraces, walks, driveways, sidewalks and similar structures substantially at grade level, provided, however, that the grade is not changed and such improvements are not to be used for parking between the street and the Front Plane of a building (or the principal side wall plane along the street in the case of a building that occupies a corner property).
- ii. Walls and fences in front yards four feet high or less as measured from the grade of the sidewalk or the surface of the ground immediately below the wall or fence, whichever grade is lower.
- iii. Replacement Doors and windows (including storm doors and windows), trelliswork, cladding, roofing material.
- iv. Flat skylights or solar collectors that are parallel to and in close contact with the plane of the roof.
- v. Permanent exterior lighting, provided that it is installed in a manner that limits direct light from shining onto any adjacent property.
- vi. Chimney caps.
- vii. Ordinary maintenance, repair or replacement of any exterior feature so long as it does not involve a change in scale, massing or open space.

Guidelines applicable to Reviewable Projects. The Greater Toxteth Neighborhood Conservation District shall be governed by the following design guidelines, and the Commission shall apply such guidelines to all Reviewable Projects in order to protect and preserve the unique neighborhood characteristics described above.

- i. Construction of any buildings or other improvements (including, without limitation, any Addition or Alteration of an existing building or other improvements, or construction of any new or replacement buildings or other improvements) shall be done in a manner that is compatible with the existing historic patterns of scale, massing and siting in the district, and maintains streetscapes, view sheds and green open space. Open/green space should be safeguarded, and respect shall be given to adjoining properties and the district as a whole.
- ii. A Reviewable Project generally shall be deemed by the Commission not to be consistent with these design guidelines (including, but not limited to, the design

- guidelines immediately set forth above in Paragraph (i) of this section), and should therefore not typically be approved, to the extent that it results in an increase of Habitable Space within an expansion of the exterior building envelop above grade (including new habitable space created by adding dormers to the roof) by more than 33% of the Base-line Living Area (whether such increase results from a one-time activity or from the aggregated effect of two or more successive activities, such that all such activities shall be cumulative and considered in the aggregate relative to the Base-line Living area condition). Notwithstanding the foregoing, the Commission may find in some circumstances that due to the unique characteristics of a particular property, the Base line Living Area is substantially less than the average condition for the immediate surrounding area and/or the district as a whole, and in such circumstances, the Commission may find that an increase of more than 33% is appropriate, provided that such larger increase does not result in a derogation of the special character of the neighborhood intended to be protected by this By-law.
- iii. Construction of any buildings or improvements (including, without limitation, any Addition or Alteration of an existing building or other improvements, or construction of any new or replacement buildings or other improvements) shall be done in a manner such that the back and side-yard setbacks are consistent with and respectful of the existing character and fabric of the immediate surrounding area and the district as a whole. Such activity shall generally be deemed by the Commission to not be consistent with and respectful of the existing character and fabric of the immediate surrounding area and the district as a whole, and should therefore not typically be approved, if it results in any part of a building or other improvements (such as porches, porticos, entryways, breezeways and bay windows) exceeding the established back and side-yard setback requirements for the house itself under the Town's applicable zoning by-laws. Notwithstanding the foregoing, in certain circumstances, owing to the unique setting of the property and the improvements situated thereon, the Commission may permit modest variations to such setbacks so long as the special character of the neighborhood is preserved.
  - iv. In the event that a lot existing as of the Effective Date is subdivided into two or more lots, then any new construction on such new lot or lots shall not be subject to Paragraph (ii) of this section, but shall otherwise be subject to these design guidelines in all respects. After such new construction has been approved, any additional Additions or Alterations that materially affect the massing, size or siting shall in general not be deemed to be consistent with these Bylaws.
  - v. All Reviewable Projects shall be done in such a manner so as to preserve and promote the existing streetscape condition characterized by generous front yard setbacks and the transition from the home to the street through open front porches that foster street level sociability. Therefore, no Addition or Alteration of an existing building or other improvements, or the construction of any new or replacement buildings or other improvements shall be deemed to be consistent with these by-laws if it results in:
    - a. The enclosure of an open porch in such a manner as to inhibit the transitional nature from the home to the street and the street level sociability fostered thereby.

- b. The Front Plane of a building being closer to the street as compared to the existing condition as of the Effective Date. Enclosure of an existing or newly constructed porch should be deemed to constitute such a change in the location of the Front Plane of the building, provided, however, that the creation of enclosed front door vestibules of less than fifty (50) square feet shall be deemed to be consistent with the character of the neighborhood. Notwithstanding the foregoing, the Commission may find in certain circumstances that, due to the unique characteristics of a particular property, the existing front yard setback is substantially less than the average condition for the immediate surrounding area and/or the district as a whole, and in such circumstances, the Commission may, with respect to a new building, permit or require an increase to the front yard setback.
- vi. In reviewing the siting, massing and design of any Reviewable Project, efforts shall be made to maintain front yard open space for each property in the district and ensure its compatibility with the streetscape pattern and preservation of neighborhood front and rear view corridors.
- vii. The Commission shall endeavor to apply the following principles when reviewing an application for a Certificate of Appropriateness for a Reviewable Project:
  - a. Promote and support the mixed architectural vernacular of the neighborhood and acknowledge any historical significance.
  - b. Ensure that buildings, including and especially new buildings, respect the traditional scale, massing and configuration of the neighborhood, particularly as buildings relate to each other, to open space, and to the street. Buildings shall be similarly oriented, and have similar yard depths and distance between buildings as their existing counterparts. The Commission shall take into account that the neighborhood desires to embrace both traditional and contemporary architectural style and design, as well as both traditional and new building materials practices and technologies.
  - c. Take into account the imposition of a Demolition Delay under Brookline's Demolition Delay By-Law with respect to any Reviewable Project, and consider the special qualities of the property identified by the Preservation Commission.
  - d. Conserve and promote green space, including the tradition of mature trees and plantings, shading, green setbacks, topography, rear view corridors, streetscapes, and other landscape amenities of the neighborhood and the potential consequences to immediate neighbors of proposed changes.
  - e. Minimize the adverse visual and acoustical effects of trash/recycling containers, air conditioning compressors, transformers and other fixtures.
  - f. Consider traffic and parking impacts as they may affect traditional street patterns and use, pedestrian activity, and safety (particularly with respect to the Lawrence School area)
- viii. The Commission shall also consider the following specific factors when reviewing an application for a Certificate of Appropriateness for a Reviewable Project:
  - a. The consistency of any proposed Alteration or Addition of an existing building or other improvement, or new or replacement building or other

improvements with the scale, massing and configuration of surrounding properties;

- b. The significance to the neighborhood (e.g. historical, architectural, social), if any, of the existing buildings or structure(s);
- c. The design of any proposed Addition or Alteration, or new or replacement building, including potential adverse effects of the Project on the surrounding properties and/or the district as a whole;
- d. The extent to which the integrity of the established streetscape and its pattern and character are restored or enhanced;
- e. The proximity of surrounding buildings and structures;
- f. Provisions for green/open space and landscaping;
- g. Provisions for and character of parking; and
- h. If made, a claim of substantial hardship.

Nothing in this Section 5.10.3.d.2 shall be construed as repealing or modifying any existing by-law or regulation of the Town, but it shall be in addition thereto. To the extent this Section 5.10.3.d.2 imposes greater restrictions upon a Reviewable Project than other by-laws, regulations or statutes, such greater restrictions shall prevail. The provisions of this Section 5.10.3.d.2 shall be deemed to be severable. If any of its provisions, subsections, sentences or clauses shall be held to be invalid or unconstitutional, the remainder shall continue to be in full force and effect.



# **Proposed Greater Toxteth Neighborhood Conservation District**

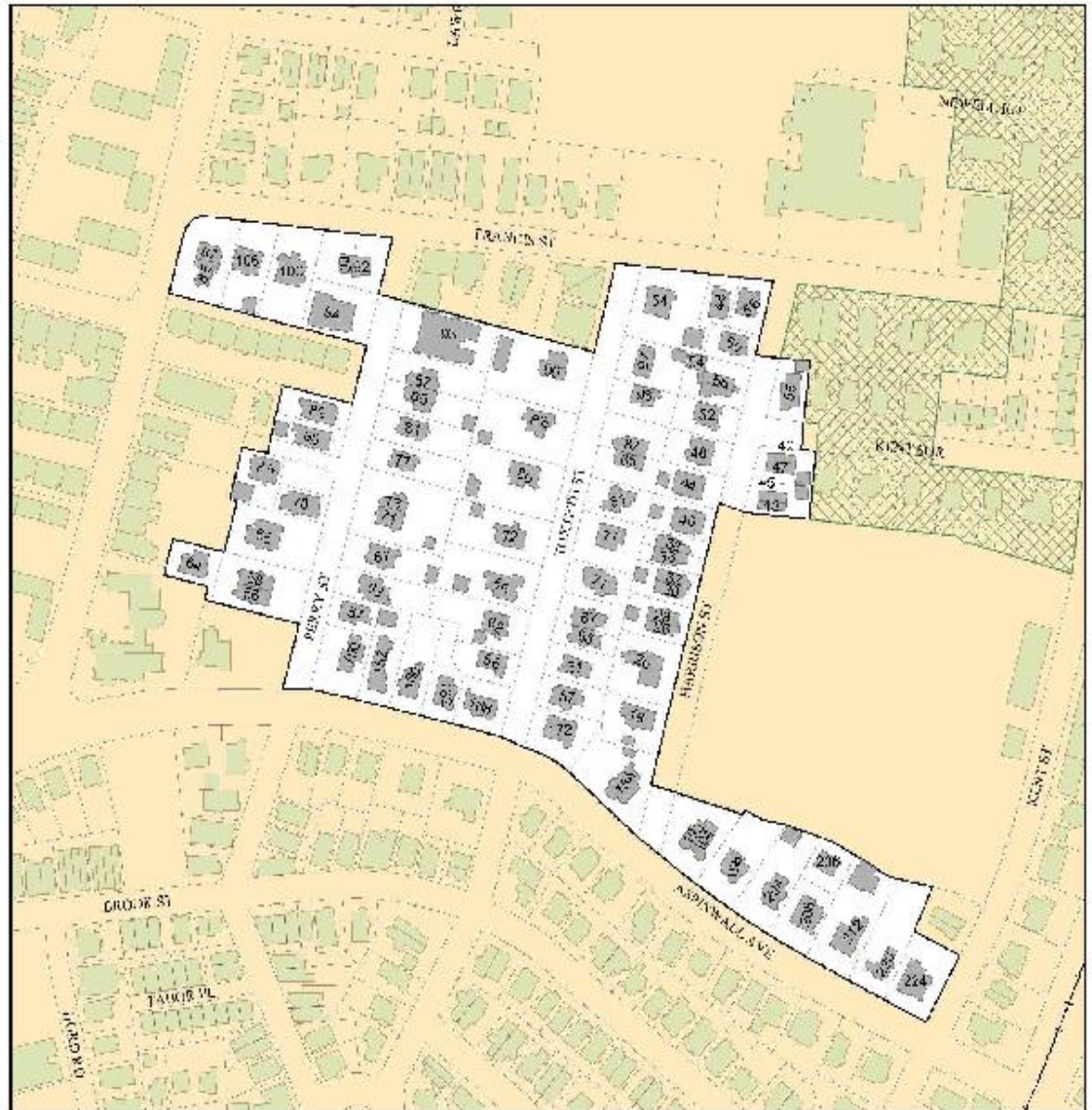
Town of Brookline,  
Massachusetts  
March 2014

## **Legend**

-  Buildings
-  NCD Boundary
-  Lawrence LID



1 inch = 200 feet  
March 2014



## **ARTICLE 12**

Submitted by: Fred Lebow

To see if the Town will amend the General By-laws, Article 8.15, Noise Control, as follows (language to be deleted appears as a strike-out and new language is underlined):

## **ARTICLE 8.15 NOISE CONTROL**

SECTION 8.15.1      SHORT TITLE

This By-law may be cited as the "Noise Control By-law of The Town of Brookline".

#### SECTION 8.15.2 DECLARATION OF FINDINGS, POLICY AND SCOPE

(a) Whereas excessive Noise is a serious hazard to the public health and welfare, safety, and the quality of life; and whereas a substantial body of science and technology exists by which excessive Noise may be substantially abated; and whereas the people have a right to and should be ensured an environment free from excessive Noise that may jeopardize their health or welfare or safety or degrade the quality of life; now, therefore, it is the policy of the Town of Brookline to prevent excessive Noise which may jeopardize the health and welfare or safety of its citizens or degrade the quality of life.

(b) Scope. This By-law shall apply to the control of all sound originating within the limits of the Town of Brookline.

1. Provisions in this By-law shall not apply to the emission of sound for the purpose of alerting persons to the existence of an emergency or to the emission of sound in the performance of emergency work or in training exercises related to emergency activities, and in the performance of public safety activities.

2. Emergency generators used for power outages, ~~or testing~~ or required by the latest edition of the State Building Code are exempt from this By-law. However, generator testing must be done during daylight hours.

3. Noncommercial public speaking and public assembly activities as guaranteed by state and federal constitutions shall be exempt from the operation of this By-law.

#### SECTION 8.15.3 DEFINITIONS

(a) Ambient or Background Noise Level: Is the term used to describe the Noise measured in the absence of the Noise under investigation. It shall be calculated using the average lowest sound pressure level measured over a period of not less than five minutes using a sound pressure level meter set for slow response on the "A" weighting filter in a specific area of the town under investigation. Background Noise Level at Night for the purpose of enforcement of this By-Law shall be 10 dBA lower than Background Noise Level measured during the Day.

(b) Construction and Demolition: Any site preparation, assembly erection, substantial repair, alteration, destruction or similar action for public or private rights-of-way, structures, utilities, or similar property.

(c) Day: 7:01 AM - 10:59 PM and Night: 11:00 PM – 7:00 AM

(d) Electronic Devices: Any radio, tape recorder, television, CD, stereo, public address system, loud speaker, amplified musical instrument including a hand held device, and any other electronic noise producing equipment.

Exemption: two-way communication radios used for emergency, safety and public works requirements.

(e) Emergencies: Any occurrence or set of circumstances necessary to restore, preserve, protect or save lives or property from imminent danger of loss or harm.

(f) Decibels (dB): The decibel is used to measure sound pressure level. The dB is a logarithmic unit used to describe a ratio of sound pressure, loudness, power, voltage and several other things.

(g) Decibels “A” weighted scale (dBA): The most widely used sound level filter is the “A” weighted scale. This filter simulates the average human hearing profile. Using the “A” weighted scale, the meter is less sensitive to very low and high frequencies.

(h) Decibels “C” weighted scale (dBC): The “C” filter uses little filtering and has nearly a flat frequency response (equal magnitude of frequencies) throughout the audio range.

(i) Fixed Plant Equipment: Any equipment such as generators, air conditioners, compressors, engines, pumps, refrigeration units, fans, boilers, heat pumps and similar equipment.

(j) Frequency response: Is the measure of any system’s response at the output to a signal of varying frequency but constant amplitude at its input. The theoretical frequency range for humans is 20 - 20,000 cycles/second (Hz).

(k) Hertz (Hz): Cycles per Second (cps).

(l) Loudness: A rise of 10dB in sound pressure level corresponds approximately to doubling of subjective loudness. That is, a sound of 65dB is twice as loud as a sound of 55dB.

(m) Leaf blowers: Any portable machine carried by hand or configured as a backpack used to blow leaves, dirt and other debris off lawns, sidewalks, driveways, and other horizontal surfaces.

(n) Noise: Sound which a listener does not wish to hear and is under investigation that may exceed the Noise requirements located in this Noise By-law.

(o) Noise Injury: Any sound that:

- (1) endangers the safety of, or could cause injury to the health of humans; or
- (2) endangers or injures personal or real property.

(p) Noise Level: The Sound Pressure Level measurements shall be made with a Type I or II sound level meter as specified under American National Standard Institute (ANSI) or IEC 61672-1 standards.

(q) Noise Pollution: If a Noise source increases Noise levels 10 dBA or more above the Background Noise Level, it shall be judged that a condition of Noise Pollution exists. However, if the Noise source is judged by ear to have a tonal sound, an increase of 5 dBA above Background Noise Level is sufficient to cause Noise Pollution.

(r) Person: Any individual, company, occupant, real property owner, or agent in control of real property.

(t) Sound: A fluctuation of air pressure which is propagated as a wave through air.

(u) Sound Level Meter: An instrument meeting Type I or Type II American National Standard Institute (ANSI) standards or the European IEC 61672-1 standards, consisting of a microphone, amplifier, filters, and indicating device, and designed to measure sound pressure levels accurately according to acceptable engineering practices.

(v) Sound Pressure Level: The level of Noise, normally expressed in decibels, as measured by a sound level meter.

(w) Tonal Sound: Any sound that is judged by a listener to have the characteristics of a pure tone, whine, hum or buzz.

#### SECTION 8.15.3A MOTOR VEHICLE DEFINITIONS

(a) Gross Vehicle Weight Rating (GVWR): The value specified by the manufacturer as the recommended maximum loaded weight of a single motor vehicle. In cases where trailers and tractors are separable, the gross combination weight rating, (GCWR), which is the value specified by the manufacturer as the recommended maximum loaded weight of the combination vehicle, shall be used.

(b) Motorcycle: Any unenclosed motor vehicle having two or three wheels in contact with the ground, including, but not limited to, motor scooters and minibikes.

(c) Motor Vehicle: Any vehicle which is propelled or drawn on land by a motor, such as, but not limited to, passenger cars, trucks, truck-trailers, semi-trailers, campers, go-carts, snowmobiles, dune buggies, or racing vehicles, but not including motorcycles.

#### SECTION 8.15.4 SOUND LEVEL EXAMPLES

The following are examples of approximate decibel readings of every day sounds:

0dBA	The faintest sound we can hear
30dBA	A typical library
45dBA	Typical office space
55dBA	Background Noise of a typical urban environment at night
65dBA	Background Noise of a typical urban environment during the day
70dBA	The sound of a car passing on the street
72dBA	The sound of two people speaking 4' apart

80dBA	Loud music played at home
90dBA	The sound of a truck passing on the street
100dBA	The sound of a rock band
115dBA	Limit of sound permitted in industry by OSHA
120dBA	Deafening
130dBA	Threshold of pain
140dBA	Rifle being fired at 3'
150dBA	Jet engine at a distance of 100'
194dBA	Theoretical limit for a sound wave at one atmosphere environmental pressure

#### SECTION 8.15.5 DUTIES AND RESPONSIBILITIES OF TOWN DEPARTMENTS

##### (a) Departmental Actions

All town departments and agencies shall, to the fullest extent consistent with other laws, carry out their programs in such a manner as to further the policy of this By-law.

##### (b) Departmental Compliance with Other Laws

All town departments and agencies shall comply with federal and state laws and regulations and the provisions and intent of this By-law respecting the control and abatement of Noise to the same extent that any person is subject to such laws and regulations.

(c) The Department of Public Works is exempt for Day and Night time operations for routine maintenance including but not limited to snow removal, street cleaning, litter control, and graffiti removal, etc. However, the DPW shall make every effort to reduce Noise in residential areas, particularly at night.

(d) Prior to purchasing new equipment, the Department of Public Works must consider equipment with the lowest Decibel rating for the performance standard required.

(e) Any proposed new or proposed upgrade for a park or recreation facility must incorporate appropriate and feasible Noise abatement measures during the design review process.

#### SECTION 8.15.6 PROHIBITIONS AND MEASUREMENT OF NOISE EMISSIONS

##### (a) Use Restrictions

1. The following devices shall not be operated except between the hours of 8 (eight) A.M. to 8(eight) P.M. Monday through Friday, and from 9 (nine) A.M. to 8(eight) P.M. on Saturdays, Sundays and holidays:

All electric motor and internal combustion engine devices employed in yard and garden maintenance and repair.

Turf maintenance equipment employed in the maintenance of golf courses, snow blowers and snow removal equipment are exempt from this section.

2. The following devices shall not be operated except between the hours of 7(seven) A.M. to 7(seven) P.M. Monday through Friday, and from 8:30(eight-thirty) A.M. to 6(six) P.M. on Saturdays, Sundays and holidays:

All devices employed in construction or demolition, subject to the maximum Noise Levels specified in Section 8.15.6b and 8.15.6c.

(b) Vehicular Sources: Maximum Noise Levels Measurements shall be made at a distance of 50 (fifty) feet from the closest point of pass-by of a Noise source or 50(fifty) feet from a stationary vehicle.

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MAXIMUM NOISE LEVEL dBA

Vehicle Class	Stationary Run-up or Speed Limit 35 mph or less	Speed Limit 35-45 mph
All vehicles over 10,000 lbs. GVWR or GCWR	83	87
All motorcycles	79	79
Automobiles and light trucks	75	75

(c) Construction and Maintenance Equipment:

Maximum Noise Levels

Noise measurements shall be made at 50 (fifty) feet from the source. The following Noise Levels shall not be exceeded:

<u>Construction Item</u>	<u>Maximum Noise Level dBA</u>	<u>Maintenance Item</u>	<u>Maximum Noise Level dBA</u>
Backhoe, bulldozer concrete mixer dumptruck, loader, roller, scraper,	90	Wood Chipper running concrete mixer, leaf vacuum	90

pneumatic tools, paver

Air compressor	85	Chainsaw, solid waste compactor, tractor (full-size)	85
Generator	80	Home tractor, snow blower	80
		Lawn mower, trimmer,	75
Electric drills, power tools, sanders, saws, etc.	75	Leaf blowers	67

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#### (d) Fixed Plant Equipment

Any person shall operate such equipment in a manner not to exceed 10 dBA over the Background Noise and not greater than 5 dBA of Tonal sound over the Background Noise. However, if the fixed equipment is operated during night time hours, the night time Sound Pressure Level of the Fixed Plant Equipment must not exceed the average daytime Background Noise to compensate for night time operations, which is assumed to be 10dBA below daytime Background Noise. See Definitions Section 8.15.3(c).

Noise measurements shall be made at the boundary of the property in which the offending source is located, or at the boundary line of the complainant if the complainant is not a direct abutter.

#### (e) Electronic Devices and Musical Instruments

No person owning, leasing or controlling the operation of any electronic device shall willfully or negligently permit the establishment or condition of Noise Injury or Noise Pollution.

In public spaces, the existence of Noise Injury or Noise Pollution is to be judged to occur at any location a passerby might reasonably occupy. When the offending Noise source is located on private property, Noise Injury or Noise Pollution judgments shall be made at the property line within which the offending source is located.

Any and all Decibel Levels of sound caused by playing non-electrified musical instruments between 9 A.M. and 9 P.M. shall be exempt with exception of drums.

#### (f) Leaf Blowers



No person shall operate any portable Leaf Blower(s) which does not bear an affixed manufacturer's label or a label from the town indicating the model number of the Leaf Blower(s) and designating a Noise Level not in excess of sixty-seven(67)dBA when measured from a distance of fifty feet utilizing American National Standard Institute (ANSI) or IEC 61672-1 methodology. Any Leaf Blower(s) which bears such a manufacturer's label or town's label shall be presumed to comply with the approved ANSI Noise Level limit or IEC Noise Limit under this By-law. However, any Leaf Blowers must be operated as per the operating instructions provided by the manufacturer. Any modifications to the equipment or label are prohibited. However, any portable Leaf Blower(s) that have been modified or damaged, determined visually by anyone who has enforcement authority for this By-law, may be required to have the unit tested by the town as provided for in this section, even if the unit has an affixed manufacturer's ANSI, IEC or town label. Any portable Leaf Blower(s) must comply with the labeling provisions of this By-law by January 1, 2010. However, the owners of any Leaf Blower(s) operating after January 1, 2010 without a manufacturer's ANSI or IEC label on the equipment, may obtain a label from the town by bringing the equipment to the town's municipal vehicle service center or such other facility designated by the Town for testing. The testing will be provided by the town's designated person for a nominal fee and by appointment only. Testing will be provided only between the months of May and October. If the equipment passes, a town label will be affixed to the equipment indicating Decibel Level.

Whether the equipment passes or not, the testing fee is non- refundable. Leaf blowers may be operated only during the hours specified in Section 8.15.6(a)(1). In the event that the label has been destroyed, the Town may replace the label after verifying the specifications listed in the owner's manual that it meets the requirements of this By-law.

(g) Animals

No person owning, keeping or controlling any animal shall willfully, negligently or through failure to provide necessary equipment or facilities or to take necessary precautions, permit the existence of Noise Pollution or Noise Injury.

(h) Additional Noise Sources

No person shall emit noise so as to cause a condition of Noise Pollution or Noise Injury.

(i) Alternative Measurement Procedures

If it is not possible to make a good Sound Pressure Level measurement at the distance as defined for specific equipment throughout Article 8.15, measurement may be made at an alternate distance and the level at the specified distance subsequently calculated. Calculations shall be made in accordance with established engineering procedures.

(j) Noise Level Exclusions



Any equipment that is used to satisfy local, state, federal health, welfare, environmental or safety codes shall be exempt from limitations for hours of operation (See Section 8.15.6(a)), except to the extent otherwise determined by the Board of Selectman. The following equipment shall also be exempt from Section 8.15.6(a) if necessary for emergency work performed by the Department of Public Works:

- jack hammers
- pavement breakers
- pile drivers
- rock drills
- or such other equipment as the DPW deems necessary,

providing that effective Noise barriers are used to shield nearby areas from excessive Noise.

#### (k) Motor Vehicle Alarms

The sounding of any horn or signaling device as a part of a burglar, fire or alarm system (alarm) for any motor vehicle, unless such alarm is automatically terminated within ten minutes of activation and is not sounded again at all within the next sixty minutes, is prohibited. Any motor vehicle located on a public or private way or on public or private property whose alarm has been or continues to sound in excess of ten minutes in any sixty minute cycle is hereby deemed to be a public nuisance subject to immediate abatement. Any police officer who observes that the alarm has or is sounding in excess of ten minutes in any sixty minute cycle, who, after making a reasonable effort, is unable to contact the owner of such motor vehicle or, after contact, such owner fails or refuses to shut-off or silence the alarm or authorize the police officer to have the alarm shut-off or silenced, may abate the nuisance caused by the alarm by entering the vehicle to shut off or disconnect the power source of the alarm, by authorizing a member of the fire department or a tow company employee to enter such vehicle to shut off or disconnect the power source of the alarm and, if such efforts are unsuccessful, such officer is authorized to abate the nuisance by arranging for a tow company to tow the motor vehicle to an approved storage area or other place of safety. If a motor vehicle's alarm is shut off or disconnected from its power source and a police officer determines that the motor vehicle is not safe in its then location and condition, the police officer may arrange for a tow company to tow the motor vehicle to an approved storage area or other place of safety. The registered owner of the motor vehicle shall be responsible for all reasonable costs, charges and expenses incurred for the shutting-off or silencing of the alarm and all costs of the removal and storage of the motor vehicle. The provisions of Article 10.1 or Section 8.15.10 shall not apply to this paragraph (k).

#### (l) Tonal Sound Corrections

When a Tonal Sound is emitted by a Noise source, the limit on maximum Noise levels shall be 5 dB lower than specified.

#### SECTION 8.15.7 PERMITS FOR EXEMPTIONS FROM THIS BY-LAW

- (a) The Board of Selectmen, or designee, may give a special permit
- (i) for any activity otherwise forbidden by the provisions of this By-law,
  - (ii) for an extension of time to comply with the provisions of this By-law and any abatement orders issued pursuant to it, and
  - (iii) when it can be demonstrated that bringing a source of Noise into compliance with the provisions of this By-law would create an undue hardship on a person or the community. A person seeking such a permit should make a written application to the Board of Selectmen, or designee. The Town will make all reasonable efforts to notify all direct abutters prior to the date of the Selectmen's meeting at which the issuance of a permit will be heard.
- (b) The applications required by (a) shall be on appropriate forms available at the office of the Selectman. The Board of Selectmen, or designee, may issue guidelines defining the procedures to be followed in applying for a special permit. The following criteria and conditions shall be considered:
- (1) the cost of compliance will not cause the applicant excessive financial hardship;
  - (2) additional Noise will not have an excessive impact on neighboring citizens.
  - (3) the permit may require portable acoustic barriers during Night.
  - (4) the guidelines shall include reasonable deadlines for compliance or extension of non-compliance.
  - (5) the number of days a person seeking a special permit shall have to make written application after receiving notification from the Town that (s)he is in violation of the provisions of this By-law.
- (c) If the Board of Selectmen, or designee, finds that sufficient controversy exists regarding the application, a public hearing may be held. A person who claims that any special permit granted under (a) would have adverse effects may file a statement with the Board of Selectmen, or designee, to support this claim.

#### SECTION 8.15.8 HEARINGS ON APPLICATION FOR PERMITS FOR EXEMPTIONS

Resolution of controversy shall be based upon the information supplied by both sides in support of their individual claims and shall be in accordance with the procedures defined in the appropriate guidelines issued by the Board of Selectmen, or designee.

#### **SECTION 8.15.9 PENALTIES**

(a) Any person who violates any provision of this By-law shall be subject to a fine pursuant to Article 10.3 (Non-Criminal Disposition) in accordance with GL c.40. Section 21d or they may be guilty of a misdemeanor in accordance with Article 10.1 of the Town By-law and each violation shall be subject to fines according to the following schedule:

- (1) \$50.00 for first offense;
- (2) \$100.00 for the second offense;
- (3) \$200.00 for the third offense;
- (4) \$200.00 for successive violations;
- plus (5) court costs for any enforcement action.

Each day of a continuing violation shall be considered a separate violation. Fines that remain unpaid after 30 days shall accrue interest at the statutory rate of interest.

(b) If a person in violation of the Noise Control By-law at a real property is an occupant but not the record owner of the real property, the Police, Health, or Building Departments may notify the owner of record of the real property of the violation. If a fine is issued in connection with excessive Noise at real property to someone other than the record owner of the property then the record owner of that property shall be notified. If there are any successive violations at least 14 days after the notification of the record owner but within a one-year period, then the record owner of the property shall also be subject to the fine schedule delineated in Section (a).

(c) The Health, Building, Police and Public Works Departments shall have enforcement authority for the By-law. To report a violation, contact the appropriate department.

#### **SECTION 8.15.10 SEVERABILITY**

If any provisions of this article or the application of such provision to any person or circumstances shall be held invalid, the validity of the remainder of this article and the applicability of such provision to other persons or circumstances shall not be affected thereby.

Or act on anything relative thereto.

#### **ARTICLE 13**

Submitted by: Nathan Bermel

Whether the Town should amend Article 8.23 of the Town's General By-laws, *Tobacco Control*, as follows:

#### Article 8.23, Sec. 8.23.3: REGULATED CONDUCT

By amending paragraph (a)<sup>1</sup> of Section 8.23.3, *Public Places*, by adding the following subparagraph (4):

- (4) No person shall smoke in or upon any public sidewalk or other public property located within four hundred (400) feet of Brookline High School grounds.

The Commissioner of Public Works shall erect and maintain signage identifying the locations where smoking is prohibited under this paragraph (4). Such signage shall be erected so as to notify the public of the smoking prohibition and the areas affected thereby.

#### Article 8.23, Sec. 8.23.6: VIOLATIONS AND PENALTIES

By amending paragraph (a) of Section 8.23.6, *Violations and Penalties*, by adding the following sentence after the first sentence in said paragraph (a):

For a first violation of this section, and for any subsequent violation, the violator may be afforded the option of enrolling in a smoking cessation/education program approved by the Director of Health and Human Services or his/her designee(s). Proof of completion of such approved program shall be in lieu of the fines set forth in this Section and in Section 10.3 of these By-laws.

Or act on anything relative thereto.

#### **ARTICLE 14**

Submitted by: Nathan Bermel

To see if the Town will amend Article 8.23, Section 8.23.2(d) of the Town's General By-laws, Tobacco Control, definition of Minor, by deleting the word "nineteen" and replacing it with the word "twenty-one",

or act on anything relative thereto.

#### **ARTICLE 15**

Submitted by: Selectmen's Brookline Place Advisory Committee

To see if the Town will amend the Brookline Zoning By-Law as follows: (new language in bold; deleted language stricken):

Section 2.07—"G" DEFINITIONS, 1. GROSS FLOOR AREA, as follows:

1. GROSS FLOOR AREA—The sum of the areas of all floors of all principal and accessory buildings whether or not habitable except as excluded. Gross floor area shall

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<sup>1</sup> As amended at the November 19, 2013 Special Town Meeting.

include enclosed porches and the horizontal area at each floor level devoted to stairwells and elevator shafts. Gross floor area shall exclude (a) portions of cellars, basements, attics, penthouses and historically and architecturally significant accessory buildings that are not habitable, provided however that space that has been decommissioned shall not be excluded from gross floor area; (b) except as required in §5.06, paragraph 4, subparagraph b(3) relating to the parking in Coolidge Corner **and as required in §5.06, paragraph 4, subparagraph d(1)(c)(iv) relating to the parking in the GMR-2.0 District**, any floor space in accessory buildings or in the main building intended and designed for parking of motor vehicles in order to meet the parking requirements of this By-law, provided, however, that for single and two-family dwellings the floor space thereby exempted from the calculation of gross floor area shall not exceed 360 square feet per required parking space; (c) elevator penthouses and mechanical equipment enclosures located above the roof, if not habitable; (d) necessary mechanical equipment space in the basement; and (e) up to 150 square feet of area in an accessory structure such as a garden or equipment shed. Measurements shall be from the exterior faces of the walls or from the centerlines of the walls for adjoining buildings. For one-, two-, and three-family buildings where the ceiling height measured from the finished floor to the ceiling exceeds 12 feet (including without limitation atriums, vaulted ceilings and cathedral ceilings), gross floor area shall be calculated by dividing by 12 the maximum ceiling height in such areas where the ceiling height exceeds 12 feet, and multiplying the result by the horizontal square footage in such areas where the ceiling height exceeds 12 feet. Space that has been decommissioned shall be included in the gross floor area of a building.

Section 5.00, Table 5.01 – Table of Dimensional Requirements, provisions applicable to GMR-2.0 DISTRICT, as follows:

Section 5.06-SPECIAL DISTRICT REGULATIONS, 4.d. General Business and Medical Research (GMR), as follows:

DISTRICT	USE	LOT SIZE MINIMUM (sq. ft.)	FLOOR AREA RATIO MAXIMUM	PBI <sup>11</sup> NB ONLY	LOT WIDTH <sup>4</sup> MINIMUM (feet)	HEIGHT <sup>9</sup> MAXIMUM	PBI <sup>11</sup>		MINIMUM YARD <sup>3</sup> (feet)			OPEN SPACE (% of gross floor area)	
							B	NB	Front <sup>1,6</sup>	Side <sup>2,7</sup>	Rear <sup>8</sup>	Landsc.	Usable <sup>13</sup>
GMR- 2.0	Any structure or principal use  (dwelling- footnote 5)	none <sup>4</sup>	2.0	2.5	none	45	60	100	none	none	10+L/10	none	none <sup>5</sup>
			4.0 <b>3.45<sup>17</sup></b>	N/A		115 <sup>17</sup>	N/A	N/A					

FOOTNOTES:

17. See SECTION 5.06-SPECIAL DISTRICT REGULATIONS, d. General Business and Medical Research (GMR).

§5.06 – SPECIAL DISTRICT REGULATIONS

4. Special Districts

d. *General Business and Medical Research (GMR)*

1) All **major impact** applications for new structures, outdoor uses, and exterior alterations or additions in the GMR-2.0 District ~~which exceed a floor area ratio of 2.5 or a height of 100 feet shall be permitted only on a lot no less than 50,000 square feet and no greater than 65,000 square feet in area and~~ shall be subject to the requirements of §5.09, Design Review, obtain a special permit per §9.03, and meet the following requirements:

a) the maximum height shall not exceed 115 feet ~~and the maximum gross floor area shall not exceed 4.0. The maximum gross floor area and open space requirements as described in Table 5.01 shall be determined based on the combined total area of all lots within the GMR-2.0 District.~~

b) no less than ~~25%~~ **35%** of the ~~Lot Area~~ **total area of all lots within the GMR-2.0 District** shall be devoted to ~~landscaped and usable~~ open space, **consisting of the part or parts of the lots at ground level designed and developed for pleasant appearance with trees and shrubs, ground covers and grass, including other landscaped elements such as natural features of the site and walks and including areas developed for outdoor use for recreation. Such**

space may not include lot area used for automotive circulation or parking. Hard surfaced walks and plazas may not exceed 55% of the total area required for such open space.

c) ~~no less than 60% of the parking spaces required by the Board of Appeals shall be provided completely below grade.~~ The buildings shall be subject to the following special dimensional requirements, as illustrated in the Figure at the end of §5.06(4)d:

i) No buildings shall be constructed within the area defined by the north and west Pearl Street property lines, and lines perpendicular to said boundary lines, one line 80 feet from the intersection of the west and north boundary lines on the west boundary line, and the other line 115 feet from the intersection of the west and north boundary lines on the north boundary line. In a situation where the interpretation of the boundaries of such area is not clear, the Board of Appeals may determine a no-build area that it deems will best approximate the requirements of this subsection;

ii) Any development that has frontage on both Pearl Street and Washington Street shall contain an area designed and intended for non-vehicular use not less than 45 feet in width that is interior to such development area and not on the perimeter bounding Pearl Street or Washington Street, which area shall be kept open for public pedestrian passage;

iii) The maximum height of any building measured to the top of the railings or parapet above the roof shall not exceed 65'-0" within the area defined by the Pearl Street north and east property lines, a line parallel to the north boundary line located 130'-0" from said boundary line, and a line perpendicular to the north boundary line located 115 feet from the intersection of the north and west boundary lines. It shall not exceed 55 feet within the portion of this area defined by the Pearl Street north and east property lines, and a line 30' from the east boundary line and parallel to said boundary line. In a situation where the interpretation of the boundaries of such area is not clear, the Board of Appeals may determine an area that it deems will best approximate the requirements of this subsection. Only in the area in which the height of 65'-0" is permitted, substantial rooftop structures such as observation towers, elevator penthouses and mechanical equipment may exceed this height limit by 10 feet or such greater amount as may be authorized by special permit granted by the Board of Appeals;

iv) The gross floor area of the buildings used to calculate the maximum permitted floor area ratio shall include the floor space at or

above grade in an accessory building or in a main building intended and designed for the parking of motor vehicles, but such floor space shall not be included in the gross floor area for the purpose of calculating parking requirements;

v) There shall be a front yard setback of 9 feet from the front lot line bordering Washington Street and Brookline Avenue, subject to modification by the Board of Appeals as provided in Section 5.43.

d) no less than 25% of the provided total number of parking spaces shall be offered to residents for overnight parking.

e) no less than 1% of the hard construction costs of constructing a building ~~on a Lot~~ **within the GMR-2.0 District** (exclusive of tenant fit-up) shall be devoted to making off-site streetscape improvements (such as, but not limited to, lighting, street furniture and widening sidewalks) and undertaking transportation **and community benefit** mitigation measures. **In addition to review by the Planning Board,** a plan of the proposed off-site streetscape improvements and a description of the proposed transportation mitigation measures shall be submitted for the review and approval of the ~~Planning Board~~ **Director of Transportation and the Director of Parks and Open Space** or ~~its designee~~ **their designees**.

2) The parking requirements for applications in the GMR-2.0 District **shall be reviewed as a single lot without regard to lot ownership and** in light of the proximity to rapid public transit shall be as follows:

a) retail use: one parking space per ~~400~~ **533** g.s.f. of floor area

b) office use: one parking space per ~~600~~ **800** g.s.f. of floor area

c) research laboratory use (Use 36B): one parking space per ~~1,000~~ **1,250** g.s.f. of floor area

d) medical office use: one parking space per ~~350~~ **467** g.s.f. of floor area

e) **For any major impact project within the GMR-2.0 District, a Transportation Access Plan Agreement (“TAPA”) that includes recognized Transportation Demand Management (“TDM”) programs shall be a condition of the special permit. Such TAPA shall be submitted to the Director of Transportation and the Director of Planning and Community Development for their review and approval. All owner(s) of the property or properties subject to the special permit shall submit an annual report for review and approval to the Director of Transportation relative to the implementation and effectiveness of the TAPA. The Director of Transportation in consultation with the Director of Planning and Community Development shall determine whether the TAPA is working satisfactorily or whether reasonable modifications to the TAPA are required.**



**The TAPA shall be modified to incorporate any reasonable requests of the Director of Transportation within sixty (60) days after he/she issues his/her determination. Failure to issue such a determination within sixty (60) days of receiving the annual report shall be deemed acceptance of the report and existing provisions of the TAPA. If any owner objects to any new request as being unreasonable or not required, such matter may be presented to the Transportation Board for recommendation to the Board of Appeals for determination.**

~~The number of parking spaces for the above uses in a GMR-2.0 District may be reduced by special permit, however, by no more than 25%, where it can be demonstrated to the Board of Appeals that is warranted due to provisions in a Transportation Access Plan that includes recognized Transportation Demand Management programs. A Transportation Access Plan Agreement shall be a condition of the special permit, shall be submitted for review to the Director of Transportation and the Director of Planning and Community Development, and shall require an annual report to the Director of Transportation. This annual report shall be accepted only after a determination by the Director of Transportation and Director of Planning and Community Development that the Transportation Access Plan is working satisfactorily and, if not, that the plan will be changed and implemented to their satisfaction. The Board of Appeals may also approve parking facilities that employ a tandem parking arrangement and/or mechanical devices that enable vehicles to be stacked vertically inside a garage subject to a report and recommendation from the Town's Director of Engineering and Transportation.~~

**f) The maximum number of parking stalls within the GMR-2.0 District shall not exceed 683, excluding drop-off and loading zones. The Board of Appeals may also approve, based on the criteria set forth in §9.05, accommodation of up to 20% additional number of vehicles, which may be in tandem parking arrangement, and/or any other parking arrangement, operation or devices that enable additional vehicles to be accommodated within parking garages.**

**3) All structures and uses in the GMR-2.0 District shall be subject to the following provisions, including both developments that constitute major impact projects and developments that do not constitute major impact projects:**

**a) Notwithstanding any other provision of this by-law with respect to calculating allowable height of a building, within the GMR-2.0 District the height for a building shall be measured from the mean natural grade of ground contiguous to such building. In a situation where the interpretation of natural grade is not clear, the Board of Appeals may determine height that it deems will best approximate the requirements of this subsection.**

**b) All lot lines which are not front lot lines shall be subject to the provisions applicable to side lot lines.**

- c) **Buildings within 125 feet of the intersection of Pearl Street and Brookline Avenue property lines shall be no taller than 30 feet, as illustrated in the Figure at the end of §5.06(4)d. In a situation where the interpretation of the point from which the height restriction is measured is not clear, the Board of Appeals may determine the restricted area that it deems will best approximate the requirements of this subsection.**
- d) **Prior to the issuance of any special permit for a major impact project under §5.06(4)d(1), the maximum gross floor area and open space requirements as described in Table 5.01 shall be determined based on the Lot Area and not based on the combined total area of all lots within the GMR-2.0 District. Subsequent to the issuance of any special permit for a major impact project under §5.06(4)d(1) that has not lapsed, the maximum gross floor area and open space requirements as described in Table 5.01 shall be determined based on the combined total area of all lots within the GMR-2.0 District.**
- 4) **A special permit granted under this section as well as special permits granted under other sections of the Zoning By-law that are combined in a single decision with the special permit granted under this section shall lapse within 2 years if a building permit is not issued and construction has not begun by such date except for good cause.**
- 5) **By special permit of the Board of Appeals, signs may be permitted on building walls not parallel or within 45 degrees of parallel to the street.**

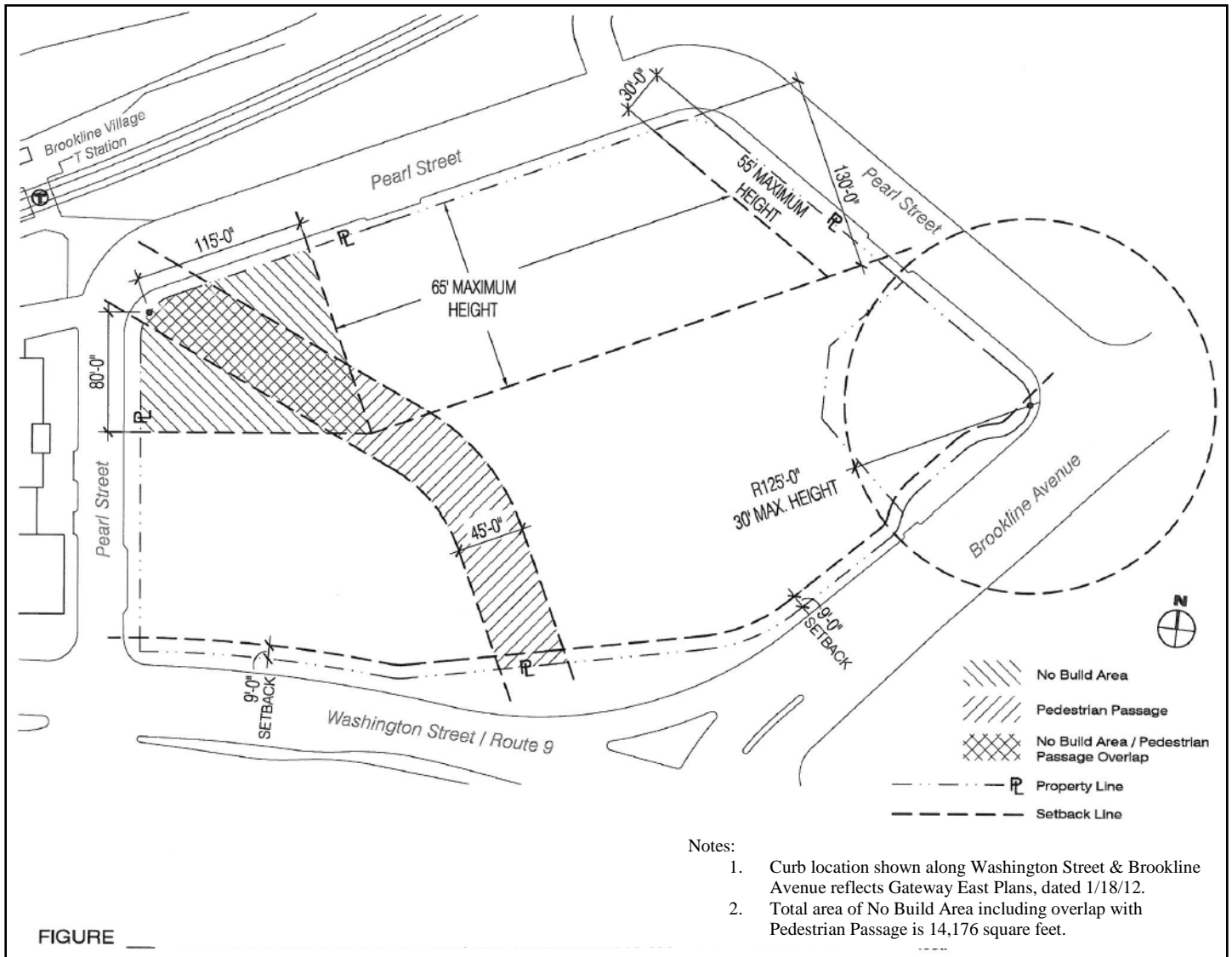


Figure XX – GMR-2.0 District Regulations

Illustration of §5.06(4)d(1)c(i-iii) and §5.06(4)d(3)c.

Or act on anything relative thereto.

## ARTICLE 16

Submitted by: Andrew Fischer

To see if the Town will amend the Zoning By-Law as follows: (new language in bold; deleted language stricken):

Section 2.07—"G" DEFINITIONS, 1. GROSS FLOOR AREA, as follows:

1. GROSS FLOOR AREA—The sum of the areas of all floors of all principal and accessory buildings whether or not habitable except as excluded. Gross floor area shall include enclosed porches and the horizontal area at each floor level devoted to stairwells and elevator shafts. Gross floor area shall exclude (a) portions of cellars, basements,

attics, penthouses and historically and architecturally significant accessory buildings that are not habitable, provided however that space that has been decommissioned shall not be excluded from gross floor area; (b) except as required in §5.06, paragraph 4, subparagraph b(3) relating to the parking in Coolidge Corner **and as required in §5.06, paragraph 4, subparagraph d(1)(c)(iv) relating to the parking in the GMR-2.0 District**, any floor space in accessory buildings or in the main building intended and designed for parking of motor vehicles in order to meet the parking requirements of this By-law, provided, however, that for single and two-family dwellings the floor space thereby exempted from the calculation of gross floor area shall not exceed 360 square feet per required parking space; (c) elevator penthouses and mechanical equipment enclosures located above the roof, if not habitable; (d) necessary mechanical equipment space in the basement; and (e) up to 150 square feet of area in an accessory structure such as a garden or equipment shed. Measurements shall be from the exterior faces of the walls or from the centerlines of the walls for adjoining buildings. For one- and two-family buildings where the ceiling height measured from the finished floor to the ceiling exceeds 12 feet (including without limitation atriums, vaulted ceilings and cathedral ceilings), gross floor area shall be calculated by dividing by 12 the maximum ceiling height in such areas where the ceiling height exceeds 12 feet, and multiplying the result by the horizontal square footage in such areas where the ceiling height exceeds 12 feet. Space that has been decommissioned shall be included in the gross floor area of a building.

Section 5.00, Table 5.01 – Table of Dimensional Requirements, provisions applicable to GMR -2.0 DISTRICT (selected columns and Footnotes),

FLOOR AREA RATIO MAXIMUM	PBI <sup>11</sup> NB ONLY	HEIGHT <sup>9</sup> MAXIMUM	PBI <sup>11</sup>		MINIMUM YARD <sup>3</sup> (feet)	OPEN SPACE (% of gross floor area)	
			B	NB	Rear <sup>8</sup>	Landsc.	Usable <sup>13</sup>
2.0	2.5	45	60	100	10+L/10	none	none <sup>5</sup>
4.0 <b>2.90<sup>17</sup></b>	N/A	115 <sup>17</sup>	N/A	N/A			

*[NOTE TO COMMITTEE: THE TABLE ABOVE WILL NEED TO EVENTUALLY BE FORMATTED TO SHOW THE ENTIRE EXISTING ROW IN THE DIMENSIONAL TABLE.]*

#### FOOTNOTES:

17. See SECTION 5.06-SPECIAL DISTRICT REGULATIONS, d. General Business and Medical Research (GMR).

Section 5.06-SPECIAL DISTRICT REGULATIONS, 4.d. General Business and Medical Research (GMR), as follows:

#### §5.06 – SPECIAL DISTRICT REGULATIONS

##### 4. Special Districts

##### d. General Business and Medical Research (GMR)

1) All **major impact** applications for new structures, outdoor uses, and exterior alterations or additions in the GMR-2.0 District ~~which exceed a floor area ratio of 2.5 or a height of 100 feet shall be permitted only on a lot no less than 50,000 square feet and no greater than 65,000 square feet in area and~~ shall be subject to the requirements of §5.09, Design Review, obtain a special permit per §9.03, and meet the following requirements:

a) the maximum height shall not exceed 115 feet ~~and the maximum gross floor area shall not exceed 4.0. The maximum gross floor area and open space requirements as described in Table 5.01 shall be determined based on the combined total area of all lots within the GMR-2.0 District.~~

b) no less than ~~25%~~ **35%** of the ~~Lot Area~~ **total area of all lots within the GMR-2.0 District** shall be devoted to ~~landscaped and usable~~ open space, **consisting of the part or parts of the lots at ground level designed and developed for pleasant appearance in trees and shrubs, ground covers and grass, including other landscaped elements such as natural features of the site and walks and including areas developed for outdoor use for recreation. Such space may not include lot area used for automotive circulation or parking. Hard surfaced walks and plazas may not exceed 55% of the total area required for such open space.**

c) ~~no less than 60% of the parking spaces required by the Board of Appeals shall be provided completely below grade. The buildings shall be subject to the following special dimensional requirements:~~

i) No buildings shall be constructed within the area defined by the north and west boundaries of the GMR-2.0 District on Pearl Street, and lines perpendicular to said boundary lines, one line 80 feet from the intersection of the west and north boundary lines on the west boundary line, and the other line 115 feet from the intersection of the west and north boundary lines on the north boundary line. In a situation where the interpretation of the boundaries of such area is not clear, the Board of Appeals may determine a no-build area which it deems will best approximate the requirements of this subsection;

ii) Any development which has frontage on both Pearl Street and Washington Street shall contain an area designed and intended for non-vehicular use not less than 45 feet in width which is interior to such development area and not on the perimeter bounding Pearl Street or Washington Street, which area shall be kept open for public pedestrian passage;

iii) The maximum height of any building measured to the top of the railings or parapet above the roof shall not exceed:

35 feet within the area defined by the northwest boundary of the GMR 2.0 District on Pearl Street, and a parallel offset line 120 feet from said line; nor

25 feet within the area defined by the north and east boundaries of the GMR 2.0 District on Pearl Street, and lines perpendicular to said boundary lines, one line 20 feet from the intersection of the north and east boundary line on the north boundary line and the other line 60 feet from the intersection of the north and east boundary line on the east boundary line.

In a situation where the interpretation of the boundaries of such area is not clear, the Board of Appeals may determine a no-build area which it deems will best approximate the requirements of this subsection. Substantial rooftop structures such as observation towers, elevator penthouses and mechanical equipment may exceed this height limit by 10 feet or such greater amount as may be authorized by special permit granted by the Board of Appeals;

iv) The maximum footprint of all space intended and designed for parking of motor vehicles shall not exceed 30,000 square feet;

v) The gross floor area use of the buildings used to calculate the maximum permitted floor area ratio shall include the floor space at or above grade in an accessory building or in a main building intended and designed for the parking of motor vehicles, but such floor space shall not be included in the gross floor area for the purpose of calculating parking requirements;

vi) There shall be a front yard setback of 9 feet from the front lot line bordering Washington Street and Brookline Avenue, subject to modification by the Board of Appeals as provided in Section 5.43.

d) no less than 25% of the provided total number of parking spaces shall be offered to residents for overnight parking.

e) no less than 1% of the hard construction costs of constructing a building ~~on a Lot~~ **within the GMR-2.0 District** (exclusive of tenant fit-up) shall be devoted to making off-site streetscape improvements (such as, but not limited to, lighting, street furniture and widening sidewalks) and undertaking transportation **and community benefit** mitigation measures. **In addition to review by the Planning Board,** a plan of the proposed off-site streetscape improvements and a description of the proposed transportation mitigation measures shall be submitted for the review and approval of the ~~Planning Board~~ **Director of Transportation and the Director of Parks and Open Space** or ~~its designee~~ **their designees**.

2) The parking requirements for applications in the GMR-2.0 District shall be reviewed as a single lot without regard to lot ownership and in light of the proximity to rapid public transit shall be as follows:

a) retail use: one parking space per ~~400~~ **533** g.s.f. of floor area

b) office use: one parking space per ~~600~~ **800** g.s.f of floor area

c) research laboratory use (Use 36B): one parking space per ~~1,000~~ **1,250** g.s.f. of floor area

d) medical office use: one parking space per ~~350~~ **467** g.s.f. of floor area

e) For any major impact project within the GMR-2.0 District, a Transportation Access Plan Agreement (“TAPA”) that includes recognized Transportation Demand Management (“TDM”) programs shall be a condition of the special permit. Such TAPA shall be submitted to the Director of Transportation and the Director of Planning and Community Development for their review and approval. All owner(s) of the property or properties subject to the special permit shall submit an annual report for review and approval to the Director of Transportation relative to the implementation and effectiveness of the TAPA. The Director of Transportation in consultation with the Director of Planning and Community Development shall determine whether the TAPA is working satisfactorily or whether reasonable modifications to the TAPA are required. The TAPA shall be modified to incorporate any reasonable requests of the Director of Transportation within sixty (60) days after he/she issues his/her determination. Failure to issue such a determination within sixty (60) days of receiving the annual report shall be deemed acceptance of the report and existing provisions of the TAPA. If any owner-objects to any new request as being unreasonable or not required, such matter may be presented to the Transportation Board for recommendation to the Board of Appeals for determination.

~~The number of parking spaces for the above uses in a GMR-2.0 District may be reduced by special permit, however, by no more than 25%, where it can be demonstrated to the Board of Appeals that is warranted due to provisions in a Transportation Access Plan that includes recognized Transportation Demand Management programs. A Transportation Access Plan Agreement shall be a condition of the special permit, shall be submitted for review to the Director of Transportation and the Director of Planning and Community Development, and shall require an annual report to the Director of Transportation. This annual report shall be accepted only after a determination by the Director of Transportation and Director of Planning and Community Development that the Transportation Access Plan is working satisfactorily and, if not, that the plan will be changed and implemented to their satisfaction.~~

**f) The maximum number of parking stalls within the GMR-2.0 District shall not be greater than the following ratios:**

- i) office use:713 g.s.f. of floor area**
- ii) medical office use:416 g.s.f. of floor area**
- iii) all other uses: maximum shall be equal to the minimum parking requirements**

**Where the applicant demonstrates an operational need to provide additional on-site vehicle accommodation, the Board of Appeals may also approve, based on the criteria set forth in §9.05, accommodation of up to 0 additional number of vehicles, which may be in tandem parking arrangement, and/or any other parking arrangement, operation or devices that enable additional vehicles to be accommodated within parking facilities garages that employ a tandem parking arrangement and/or mechanical devices that enable vehicles to be stacked vertically inside a garage subject to a report and recommendation from the Town's Director of Engineering and Transportation.**

**3) All structures and uses in the GMR 2.0 District shall be subject to the following provisions, including both developments which constitute major impact projects and developments which do not constitute major impact projects:**

**a) Notwithstanding any other provision of this by-law with respect to calculating allowable height of a building, within the GMR-2.0 District the height for a building shall be measured from the mean natural grade of ground contiguous to such building. In a situation where the interpretation of natural grade is not clear, the Board of Appeals may determine height which it deems will best approximate the requirements of this subsection.**

**b) All lot lines which are not front lot lines shall be subject to the provisions applicable to side lot lines.**

**c) Buildings within 125 feet of the intersection of Pearl Street and Brookline Avenue shall be no taller than 30 feet. In a situation where the interpretation of the point from which the height restriction is measured is not clear, the Board of Appeals may determine the restricted area which it deems will best approximate the requirements of this subsection.**

**d) Prior to the issuance of any special permit for a major impact project under §5.06- 4.d.1, maximum gross floor area and open space requirements as described in Table 5.01 shall be determined based on the Lot Area and not based on the combined total area of all lots within the GMR-2.0 District. Subsequent to the issuance of any special permit for a major impact projects under §5.06- 4.d.1 which has not lapsed, the maximum gross floor area and open space requirements as described in Table 5.01 shall be determined based on the combined total area of all lots within the GMR-2.0 District.**

4) A special permit granted under this section as well as special permits granted under other sections of the Zoning By-law which are combined in a single decision with the special permit granted under this section shall lapse within 2 years if a building permit is not issued and construction has not begun by such date except for good cause.

5) By special permit of the Board of Appeals, signs may be permitted on building walls not parallel or within 45 degrees of parallel to the street.

Or act on anything relative thereto.

## **ARTICLE 17**

Submitted by: Board of Selectmen

To see if the Town will vote to accept a grant of easement from Children's Brookline Place, LLC and Children's One Brookline Place, LLC, each of which are Massachusetts limited liability companies with an address c/o The Children's Hospital Corporation, 300 Longwood Avenue, Boston, Massachusetts 02115 over a portion of land located at 1 Brookline Place and 2-4 Brookline Place as the location of such easement is more particularly shown on that certain plan entitled "Conceptual Redevelopment Plan", prepared by Elkus Manfredi Architects, LTD., and will be further described in the Easement Agreement that will be on such terms and conditions as the Board of Selectmen deem to be in the best interests of the Town with respect to the current proposed development of the site known as Brookline Place. Said easement is situated in Norfolk County and contains approximately 23,916 square feet as shown on said Plan. Said Plan and Easement Agreement to be recorded at the Norfolk Registry of Deeds and/or if required the Norfolk Registry District of the Land Court following the granting of a Special Permit and other necessary permits associated with the proposed redevelopment of the above properties, as more particularly set forth in the Memorandum of Agreement, and shall be supplemented with the final as-built plans all as further set forth in the Easement Agreement which is incorporated herein by reference. The description of the parcels of land being burdened by the easement described as follows:

### **Legal Description of 2-4 BP Property**

The land in Brookline, Norfolk County, Massachusetts, known as Two and Four Brookline Place and shown as Lot A on a plan entitled "Subdivision Plan of Land/Marsh Project - B-2 Parcel/Brookline, MA/Norfolk County" by J.F. Hennessey Co., dated January 15, 1985, recorded with the Norfolk County Registry of Deeds in Plan Book 324, Plan 927 of 1985, bounded and described as follows:

SOUTHEASTERLY

and SOUTHERLY by Washington Street 213.30 feet;

WESTERLY and

NORTHWESTERLY by Pearl Street 400.31 feet; and

EASTERLY

by Lot B shown on said plan by 3 courses measuring 139.02 feet, 30.95 feet and 156.61 feet.

The above-described premises contains the following parcels of registered land:



Lot B and Lot C on Land Court Plan 687<sup>B</sup>  
Lot D and Lot E on Land Court Plan 687<sup>C</sup>  
Lot B on Land Court Plan 3182<sup>A</sup>  
Lot A-1 on Land Court Plan 3182<sup>B</sup>  
Lot A2 on Land Court Plan 3182<sup>C</sup>

Together with the benefit of terms and provisions of Easement Agreement dated October 31, 2006 by and among Brookline Village II Limited Partnership, Village Plaza Limited Partnership and Village Waterworks Limited Partnership and recorded in Book 24255, Page 389, and filed as Document No. 1115033.

### **Legal Description of 1 BP Property**

The land in Brookline, Norfolk County, Massachusetts, known as One Brookline Place and shown as Lot B on a plan entitled "Subdivision Plan of Land/Marsh Project - B-2 Parcel/Brookline, MA/Norfolk County" by J.F. Hennessey Co., dated January 15, 1985, recorded with the Norfolk County Registry of Deeds in Plan Book 324, Plan 927 of 1985, bounded and described as follows:

SOUTHEASTERLY	by Brookline Avenue and Washington Street by four courses, measuring 99.69 feet, 19.06 feet, 42.73 feet and 175.33 feet, respectively;
WESTERLY	by Lot A shown on said plan by three courses measuring 156.61 feet, 30.95 feet and 139.02 feet, respectively;
NORTHWESTERLY NORTHERLY AND NORTHEASTERLY	by Pearl Street, 393.75 feet; and
SOUTHEASTERLY EASTERLY AND SOUTHWESTERLY	by Lot C shown on said plan by three courses measuring 65.74 feet, 48.82 feet and 95.09 feet, respectively.

The above-described premises contains the following parcels of registered land:

Lots 1 through 5 on Land Court Plan 24371<sup>A</sup> and a "way" shown on said plan.

Together with the benefit of terms and provisions of Easement Agreement dated October 31, 2006 by and among Brookline Village II Limited Partnership, Village Plaza Limited Partnership and Village Waterworks Limited Partnership and recorded in Book 24255, Page 389, and filed as Document No. 1115033.

Or act on anything relative thereto.

## **ARTICLE 18**

Submitted by: Board of Selectmen

To see if the Town will accept a Restrictive Covenant from Children's One Brookline Place, LLC and Children's Brookline Place, LLC, each a Massachusetts limited liability company and the owners and/or entities having the option to purchase the properties located at 1 and 2-4 Brookline Place, Brookline, Massachusetts, respectively, which will be upon such terms and conditions as the Board deems in the best interests of the Town with respect to the current development of the site known as Brookline Place, and authorize the Board of Selectmen to enter into any necessary agreement in furtherance of the purposes of the Restrictive Covenant with respect to future tax-certainty of the land and buildings at Brookline Place and as more specifically set forth in the Restrictive Covenant. The description of the parcels of land being described as follows:

### **Legal Description of 2-4 BP Property**

The land in Brookline, Norfolk County, Massachusetts, known as Two and Four Brookline Place and shown as Lot A on a plan entitled "Subdivision Plan of Land/Marsh Project - B-2 Parcel/Brookline, MA/Norfolk County" by J.F. Hennessey Co., dated January 15, 1985, recorded with the Norfolk County Registry of Deeds in Plan Book 324, Plan 927 of 1985, bounded and described as follows:

SOUTHEASTERLY

and SOUTHERLY by Washington Street 213.30 feet;

WESTERLY and

NORTHWESTERLY by Pearl Street 400.31 feet; and

EASTERLY

by Lot B shown on said plan by 3 courses measuring  
139.02 feet, 30.95 feet and 156.61 feet.

The above-described premises contains the following parcels of registered land:

Lot B and Lot C on Land Court Plan 687<sup>B</sup>

Lot D and Lot E on Land Court Plan 687<sup>C</sup>

Lot B on Land Court Plan 3182<sup>A</sup>

Lot A-1 on Land Court Plan 3182<sup>B</sup>

Lot A2 on Land Court Plan 3182<sup>C</sup>

Together with the benefit of terms and provisions of Easement Agreement dated October 31, 2006 by and among Brookline Village II Limited Partnership, Village Plaza Limited Partnership and Village Waterworks Limited Partnership and recorded in Book 24255, Page 389, and filed as Document No. 1115033.

### **Legal Description of 1 BP Property**

The land in Brookline, Norfolk County, Massachusetts, known as One Brookline Place and shown as Lot B on a plan entitled “Subdivision Plan of Land/Marsh Project - B-2 Parcel/Brookline, MA/Norfolk County” by J.F. Hennessey Co., dated January 15, 1985, recorded with the Norfolk County Registry of Deeds in Plan Book 324, Plan 927 of 1985, bounded and described as follows:

SOUTHEASTERLY                      by Brookline Avenue and Washington Street by four courses, measuring 99.69 feet, 19.06 feet, 42.73 feet and 175.33 feet, respectively;

WESTERLY                              by Lot A shown on said plan by three courses measuring 156.61 feet, 30.95 feet and 139.02 feet, respectively;

NORTHWESTERLY  
NORTHERLY AND  
NORTHEASTERLY                      by Pearl Street, 393.75 feet; and

SOUTHEASTERLY  
EASTERLY AND  
SOUTHWESTERLY                      by Lot C shown on said plan by three courses measuring 65.74 feet, 48.82 feet and 95.09 feet, respectively.

The above-described premises contains the following parcels of registered land:

Lots 1 through 5 on Land Court Plan 24371<sup>A</sup> and a “way” shown on said plan.

Together with the benefit of terms and provisions of Easement Agreement dated October 31, 2006 by and among Brookline Village II Limited Partnership, Village Plaza Limited Partnership and Village Waterworks Limited Partnership and recorded in Book 24255, Page 389, and filed as Document No. 1115033.

Or act on anything relative thereto.

#### **ARTICLE 19**

Submitted by: Board of Selectmen

To see if the Town will authorize the Board of Selectmen to release the documents executed in connection with the acquisition of development rights in 2-4 Brookline Place entered into by and among the Town, Village Plaza Limited Partnership and Children’s Brookline Place LLC, including, without limitation, that certain Tri-Party and Escrow Agreement recorded with the Norfolk Registry of Deeds and the Norfolk Registry District of the Land Court on October 29, 2007, and the Development, Easement and Lease Agreement dated October 26, 2007, as well as the documents being held in escrow pursuant to the above-referenced Tri-Party and Escrow Agreement for the prior, so-called 2007 proposed Children’s Hospital Project at Brookline Place, and to enter into any necessary agreement(s) and/or amendments to existing agreements to carry out the terms and conditions set forth in a certain Memorandum of Agreement among Children’s Brookline Place, LLC and Children’s One Brookline Place, LLC, each a Massachusetts limited liability company and the entities owning and/or having the option to purchase the parcels of land and buildings thereon that make-up the so-called Brookline Place

properties, and upon such further terms and conditions that the Board deems in the best interest of the Town with respect to the current proposed development of the site known as Brookline Place.

Or act on anything relative thereto.

## **ARTICLE 20**

Submitted by: Daniel Simkovitz and Elena Budrene-Kac

To see if the Town will amend the Brookline Zoning By-Law and the Zoning Map as follows:

By amending the current zoning and map to change the current zoning district for the following three (3) parcels of property located at 273 Mason Terrace (Town Assessor's Parcel Id. No. 085-87-00); 277 Mason Terrace (Town Assessor's Parcel Id. No. 085-88-00); and 281 Mason Terrace (Town Assessor's Parcel Id. No.085-89-00); from an S-7 district to the adjacent T-6 zoning district as shown on the attached plan.

Or act on anything relative thereto.

## **ARTICLE 21**

Submitted by: Submitted by: Diane Gold

To see if the Town will amend the Brookline Zoning By-Law by adding to Sec. 3.01.1, Classification of Districts, a new zoning district, S-4, as follows: (new language in bold)

### **Section 3.01 - Classification of Districts**

#### **1. Residence Districts**

##### **a. Single Family (S)**

- 1) S-40
- 2) S-25
- 3) S-15
- 4) S-10
- 5) S-7
- 6) S-0.5P (Refer to Section 5.06, Special District Regulations)
- 7) S-0.75P (Refer to Section 5.06, Special District Regulations)
- 8) S-4**

And by modifying the Brookline Zoning Map10Z as follows: by changing the following T-5 properties to the new S-4 zoning district at: 6 Meadowbrook Rd (Block 341 Lot 13), 8 Forest St. (Block 341 Lot 11), 1 Forest St.( Block 342 Lot 01-02), 26 Meadowbrook Rd. (Block 345 Lot 15), 17 Larkin Rd. (Block 343, Lot 03), 14 Whitney St.( Block 343 Lot 08), 20 Whitney St.( Block 343 Lot 07), 15 Whitney St. (Block 344 Lot 03), 17 Whitney St. (Block 344 Lot 04), 21 Whitney St.( Block 344 Lot 05), and 25 Whitney St. (Block 344 Lot 06).

And by modifying Table 5.01, Table of Dimensional Requirements, by adding a new row for the S-4 district, after the SC-10 row, as follows: (new language in bold)

Table 5.01 - Table of Dimensional Requirements

						Min Yard			Open Space	
	Use	Min Lot Size	FAR Max	Lot Width Min	Height Max	Front	Side	Rear	Landsc	Usable
<b>S-4</b>	<b>1 - family detached dwelling</b>	<b>4,000</b>	<b>1.0</b>	<b>40</b>	<b>35</b>	<b>15</b>	<b>7.5</b>	<b>30</b>	<b>10%</b>	<b>30%</b>
	<b>Any other structure or principal use</b>	<b>5,000</b>	<b>1.0</b>	<b>50</b>	<b>35</b>	<b>25</b>	<b>20</b>	<b>40</b>	<b>30%</b>	<b>none</b>
T-5	1-family detached dwelling	4,000	1.0	40	35	15	7.5	30	10%	30%
	2 family dwelling	5,000	1.0	45	35	15	10	30	10%	30%
	1-family attached dwelling	2,500	1.0	20	35	15	none <sup>2</sup>	30	10%	30%
	Any other structure or principle use	5,000	1.0	50	35	25	20	40	30%	none

Or act on anything relative thereto.

## **ARTICLE 22**

Submitted by: Department of Planning and Community Development

To see if the Town will amend the Brookline Zoning By-law as follows:

Amending Section 4.07 – Table of Use Regulations, by modifying Use 25A (**new language in bold**):

Principal Uses	Residence					Business			Ind.
	S	SC	T	F	M	L	G	O	I
25. Gasoline service station	No	No	No	No	No	SP	SP	No	SP
<del>25A. Partially self-service gasoline stations.</del> <b>Gasoline service</b>	No	No	No	No	No	SP*	SP*	No	SP*

<b>station with convenience store</b> <b>*See §6.08, paragraph 13, for additional regulations.</b>									
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Amending Section 6.08 – Regulations Applying to Gasoline Service Stations by modifying paragraphs 1 and 11 and adding new paragraphs 13, 14 and 15 to read as follows (**new language in bold**):

#### §6.08 – REGULATIONS APPLYING TO GASOLINE SERVICE STATIONS

Gasoline service stations shall be designed to conform to the following requirements:

1. No driveway shall be permitted to any street that carries traffic at such speed or in such quantity that the ~~Building—Commissioner~~ **Director of Transportation/Engineering** deems that access to or egress from a gasoline services station at such a location will create hazardous conditions.
2. The minimum lot area shall be 10,000 square feet.
3. The minimum frontage on a street shall be 100 feet.
4. The maximum width of driveways and sidewalk openings measured at the street lot line shall be 30 feet; the minimum width shall be 20 feet.
5. The minimum distance of driveways, measured at lot line, shall be as follows:
  - a. From corner lot line, 20 feet;
  - b. From interior side lot line, 10 feet;
  - c. From other driveway on same lot, 20 feet.
6. The minimum setback of any building (including a canopy) from all street lot lines shall be 40 feet, except that the Board of Appeals by special permit may permit canopies over pump islands to have a minimum setback of 5 feet at gasoline service stations located on Boylston Street, Brookline Avenue, and Commonwealth Avenue.
  - a. The minimum setback of gasoline pumps from all street lot lines shall be 12 feet.
  - b. A raised curb at least six inches in height shall be constructed along all lot lines except at driveway openings.
7. Properties in residential districts which abut a gasoline service station shall be protected from headlight glare by either:
  - a. A strip at least four feet wide, densely planted with shrubs or trees which are at least four feet high at the time of planting and which are of a type that may be expected to form a year-round dense screen at least six feet high within three years, or
  - b. A wall, barrier, or fence of uniform appearance at least five feet high, but not more than seven feet above finished grade. Such wall, barrier, or fence must be opaque.

- c. Such screening shall be maintained in good condition at all time, and shall not be permitted to exceed seven feet in height within required side yards. Such screening or barrier may be interrupted by normal entrances or exits, and shall have no signs hung or attached thereto other than those permitted in the district.
8. All illumination on outdoor areas shall be shielded so as not to shine upon any property in a residence district.
9. All washing, lubricating, and making of repairs shall be carried on inside the building.
10. No repairs such as body work shall be performed.
11. No merchandise other than accessory, portable automotive merchandise may be displayed or sold on the premises, **unless the Board of Appeals has issued a special permit for a gasoline service station with convenience store, Use 25A of §4.07 – Table of Use Regulations.**
12. The area of the lot not landscaped and so maintained shall be graded, surfaced with asphalt or other suitable material, and drained to the satisfaction of the Building Commissioner, to the extent necessary to prevent nuisances of dust, erosion, or excessive water flow across public ways.
13. **No special permit for a gasoline service station with convenience store (Use 25A of §4.07 – Table of Use Regulations) shall be issued unless all of the following conditions are met:**
- a. **The retail store shall have no more than 3,000 s.f. in gross floor area.**
  - b. **No drive-in use shall be allowed for the convenience store.**
  - c. **Parking for the gasoline service station with convenience store shall be provided in accordance with the parking requirements for Industrial uses as shown in §6.02, Paragraph 1, Table of Off-Street Parking Space Requirements. The parking spaces at the pumps for refueling vehicles may not be counted. If the need for fewer parking spaces can be demonstrated, a reduced parking requirement may be granted by special permit by the Board of Appeals.**
  - d. **No indoor seating shall be allowed.**
  - e. **The convenience store and gas station uses shall be operated under a single business or franchise name.**
  - f. **The convenience store shall not include the branded, franchised operations of a related or complementary business whose retail outlets are not primarily situated within convenience stores.**
14. **Gasoline service stations may operate either full-service or self-service pumps, or a combination of the two.**
15. **All gasoline service stations, regardless of self- or full-serve, shall provide customers with disabilities with refueling assistance without additional charge, and post clear signage indicating this assistance is available by signaling an employee.**

Or act on anything relative thereto.

## **ARTICLE 23**

Submitted by: Department of Planning and Community Development

To see if the Town will amend the Brookline Zoning By-law as follows:

Amend Section 4.07 – Table of Use Regulations, Use 53, by changing “SP” into “No” for S zoning districts and removing the asterisk and accompanying wording (**new language in bold**):

Accessory Uses	Residence					Business			Ind.
	S	SC	T	F	M	L	G	O	I
53. Dwelling unit in an accessory building for not more than four persons who are full-time domestic employees or members of the family of such employees.  <del>*Allowed only in an S-40 district, on a lot not less than 40,000 s.f. with an accessory building not exceeding 1,200 s.f.</del>	<del>SP</del> <b>No</b>	No	No	No	No	No	No	No	No

Or act on anything relative thereto.

## **ARTICLE 24**

Submitted by: Department of Public Works

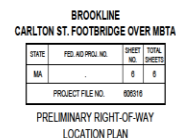
To see if the Town will vote to accept the grant of an easement for land and air rights for the reconstruction of the Carlton Street Footbridge, and associated structural footings and accessibility ramps, from the Massachusetts Department of Transportation, Rail and Transit Division, under which the Massachusetts Bay Transportation Authority (“MBTA”) operates, a body politic and corporate, and a political subdivision of the Commonwealth of Massachusetts. Said easement is within the MBTA right of way.

Said easement shall reference, and serve to delineate and make current, the extant Release to the Town of Brookline from the Boston and Albany Railroad Company, an earlier Massachusetts corporation and predecessor to the present day MBTA, and then owner of the MBTA right of way, as contained in Book 655, pages 170-172, at the Norfolk County Registry of Deeds, and recorded on May 29, 1891.

Said easement is situated wholly within the Town of Brookline, in Norfolk County, in the Commonwealth of Massachusetts, and will be situated substantially as shown on a plan entitled “PRELIMINARY RIGHT-OF-WAY LOCATION PLAN,” prepared by the Town of Brookline, Department of Public Works, Engineering/Transportation Division, and included herewith.

Or act on anything relative thereto.





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PROPERTY 56 DWG

Plotted on 27-Feb-2014 5:09 PM

**ARTICLE 25**

Submitted by: Retirement Board

To see if the Town will accept the provisions of Section 20(6) *Retirement Board Members Compensation* of Massachusetts General Laws Chapter 32, as amended by Section 34 of Chapter 176 of the Acts of 2011, *An Act Providing for Pension Reform and Benefit Modernization* (“the Act.”)

Or act on anything relative thereto.

**ARTICLE 26**

Submitted by: John Harris

To see if the Town will authorize and empower the Board of Selectmen to file a petition, in substantially the following form, with the General Court:

AN ACT TO REPEAL THE BOARD OF SELECTMEN’S AUTHORITY TO SELL  
TAXI MEDALLIONS

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same as follows:

Section 1. Strike IN ITS ENTIRETY sec. 4a of the 1974 Mass. Acts ch. 317, as amended by 2010 Mass. Acts ch. 51 sec. 4a, authorizing the Board of Selectmen to have exclusive authority to sell taxi licenses [MEDALLIONS] by public auction, public sale, sealed bid or other competitive process established by regulations promulgated by the board; and as amended by 2012 Mass. Acts ch. 52 sec. 3, which established a separate Taxi Medallion Fund.

Section 2: This act shall take effect IMMEDIATELY upon its passage.

or act on anything relative thereto.

**ARTICLE 27**

Submitted by: Neil Gordon

To see if the Town will adopt the following resolution:

WHEREAS: The Town of Brookline owes a debt of gratitude to every resident who has honorably served in the Armed Forces of the United States (individually, a “Veteran”); and

WHEREAS: The Town of Brookline desires, in a modest way, to honor the memory of each such Veteran for his or her service; and

WHEREAS: The United States Department of Veterans Affairs provides, at no cost, a United States flag (“Burial Flag”) to drape the casket or accompany the urn of a deceased Veteran who has honorably served in the U.S. Armed Forces; and

WHEREAS: If a Burial Flag is not available then a suitable substitute can be made available by the Town at modest cost;

NOW, THEREFORE, BE IT RESOLVED THAT: Town Meeting urges the Board of Selectmen, upon the reasonable request by a Veteran’s family or by any other appropriate party, to authorize, by specific resolution of the Board of Selectmen, the flying of a Burial Flag or suitable substitute provided by the Town, in memory of any deceased Veteran who was, at any time, a resident of the Town of Brookline; and

BE IT FURTHER RESOLVED THAT: such flag shall be flown at such place, for such time and with such ceremony as the Board of Selectman shall determine in their sole discretion; and

BE IT FURTHER RESOLVED THAT: in the case of a Burial Flag provided by a Veteran’s family or other appropriate party, such flag shall thereafter be promptly returned to the family or other appropriate party; and

BE IT FURTHER RESOLVED THAT: the Board of Selectmen shall promptly thereafter send a letter or certificate to the family or other interested party, such letter to include the text of the resolution of the Board of Selectmen authorizing the flying of a flag in memory of the honorable service in the U.S. Armed Forces of such former resident of the Town of Brookline; and

BE IT FURTHER RESOLVED THAT: the Board of Selectmen use reasonable means to publicize the modest but meaningful memorial to Brookline’s Veterans described above;

Or act on anything relative thereto.

## **ARTICLE 28**

Submitted by: Frank Caro

### Proposed resolution on Slippery Sidewalks in Business Districts

Whereas: Section 7.7.1 of the Town’s bylaws requires that in a business district, the owner of land adjacent to a sidewalk maintain the sidewalk, in a non-slippery condition suitable for pedestrian travel within the first 3 daytime hours after snow and ice have come upon the sidewalk and maintain the sidewalk in a non-slippery condition as necessary,

Whereas: Section 7.7 of the bylaws requires owners of land adjacent to sidewalks to maintain the sidewalk in a non-slippery condition as necessary,

Whereas: A significant number of sidewalks in business districts are regularly in a slippery conditions after snow falls,

Whereas: The Town's complaint-driven system for enforcing its sidewalk snow-maintenance bylaw allows delays in enforcement of the bylaw,

Whereas: Delayed removal of snow and ice puts the safety of pedestrians at risk,

Whereas: The Town enforces some other bylaws by deploying enforcement officers with a mandate to identify violators,

Therefore be it resolved that the Town proactively deploy enforcement officers on foot in business districts beginning in the fourth daylight hour after snowfalls to enforce Section 7.7.1. of the Town's bylaws. These enforcement officers shall issue warnings and tickets on the basis of their own observations without waiting for complaints to be submitted to the Town.

Or act on anything relative thereto.

## **ARTICLE 29**

Submitted by: Brookline Local First

To see if the Town will adopt the following Resolution

### **WHEREAS**

The Town of Brookline has long been at the forefront of innovation ideas, creativity and most importantly action; and

### **WHEREAS**

The most critical action any town can take to diminish the effects of national economic crisis and assist its residents is to do everything possible to strengthen its local economy; and

### **WHEREAS**

Research has shown that \$2 of every \$3 spent at locally owned businesses stays in the local economy; however, only \$1 of every \$3 spent at chain stores or public companies stays in the local economy; and

### **WHEREAS**

The money spent at local independently owned businesses has given residents a more healthy, vibrant and sustainable community; and

### **WHEREAS**

Brookline is most fortunate to have many locally owned and independent businesses that are critical components to its local economy. However these locally owned businesses have had a difficult time in this economy; and

### **WHEREAS**

These difficulties necessitate a much more proactive approach by town government to support the local economic development for citizens to realize a positive impact, and now therefore be it

## RESOLVED

That the Town of Brookline declare itself a "Local Economy Community" welcoming, and encouraging local entrepreneurship; and

## RESOLVED

That the Town Administrator, School Department the Selectmen, and all departments:

1. Determine how the Town can increase procurement from Locally Owned Independent Businesses.
2. Ensure that locally or regionally owned banks participate and are given whatever preference is lawfully allowed when bids for town banking services are requested.
3. Support whatever efforts are made by the school committee to increase the percentage of locally grown and produced food served to students and staff; and

## RESOLVED

That the Selectmen, Town Administrator, School Department, Department heads and members of locally owned independent businesses form a Task Force to identify and develop policies that directly support the growth and development of locally owned and independent businesses in Brookline,

## RESOLVED

That the Town of Brookline declare an annual "Brookline Local Economy Week" that coincides with "Brookline Day", and that the Town Administrator, School Department and Town Department Heads confer to promote the steps all can take to contribute to fostering our local economic development during that week.

Or act on anything relative thereto.

## **ARTICLE 30**

Submitted by: Scott Gladstone

To see if the Town will adopt the following Resolution:

WHEREAS obstetric fistula occurs when a girl or woman has a baby when they are too young or small and have no help from a birth attendant while in labor.

WHEREAS obstetric fistula is a medical condition that occurs from a prolonged obstructed labor where the baby gets stuck in the birth canal, compressing the tissue so no blood gets to it, causing it to die. This leaves a hole between the vagina and rectum, vagina and bladder or both, making the girl or woman unable to control her urine and/or feces.

WHEREAS a girl with obstetric fistula is forced to live on the outskirts of her village where she may be attacked by wild animals, die of starvation, and/or suffer from crippling psychological issues. She becomes an outcast and believes she is cursed by G-d.

WHEREAS obstetric fistula is preventable through medical interventions such as skilled midwives, providing access to family planning, as well as delaying early marriage and educating and empowering young women.

WHEREAS obstetric fistula can be surgically repaired, with success rates higher than 90 percent and at a cost of less than \$450, including post-surgical care.

WHEREAS, according to the State Department, “the health of women enhances their productivity and social and economic participation and also acts as a positive multiplier, benefitting social and economic development through the health of future generations.”

WHEREAS House Resolution 2888 the Obstetric Fistula Prevention, Treatment, Hope and Dignity Restoration Act of 2013 was introduced into the 113th Congress to authorize the President to provide assistance, including through international organizations, national governments, and international and local non-governmental organizations to address the social and health issues that lead to obstetric fistula and support treatment of obstetric fistula and to report to Congress on those efforts on an annual basis.

RESOLVED, that the Town Meeting of Brookline Massachusetts urges the members of its congressional delegation and other Massachusetts Congressmen to support the Obstetric Fistula Prevention, Treatment, Hope and Dignity Restoration Act of 2013, and vote for passage of the Act.

RESOLVED, that the Town Meeting of Brookline urges Massachusetts Congressmen William Keating and Joseph Kennedy III, members of the House Foreign Affairs Committee, which is the Committee to which the Obstetric Fistula Prevention, Treatment, Hope and Dignity Restoration Act of 2013 has been assigned, to push for passage of the Act out of committee, and for a vote of the Act by the full House of Representatives.

RESOLVED, that the Selectmen promptly transmit this resolution to Congressmen Keating and Kennedy as well as to Senators Edward Markey and Elizabeth Warren.

Or act on anything relative thereto.

### **ARTICLE 31**

Submitted by: Alex Coleman

To see if the Town of Brookline will adopt the following Resolution:

WHEREAS, the Town of Brookline, with its strong commitment to diversity and inclusion, promotes an environment that is free of discrimination and harassment for all its employees, residents, customers, and clients, and

WHEREAS, the Town of Brookline recognizes that everyone has the right to live free from discrimination and harassment, and

WHEREAS, the town of Brookline finds that no individual should be denied equal treatment or opportunity due to discrimination, and

WHEREAS, the Town of Brookline finds that no individual should suffer harassment due to bias, and

WHEREAS, current local, state and federal government laws, regulations and ordinances are not fully inclusive in their protections for gender identity and expression, and

WHEREAS, transgender people suffer pervasive discrimination on the basis of gender identity and expression in employment, housing, public accommodations, education and credit and lending, and

BE IT RESOLVED that the Town of Brookline consistent with its strong commitment to diversity and inclusion affirms its support for the prohibition of discrimination or harassment on the basis of gender identity and expression in employment, housing, public accommodations, credit and lending, and public education.

Or act on anything relative thereto.

### **ARTICLE 32**

Submitted by: Frank Farlow and Byron Hinebaugh

To see if the Town will adopt the following resolution:

**WHEREAS** the promotion of public health and preservation of the environment are guiding principles for individuals, organizations and the government of Brookline, most recently reflected in the establishment of Climate Action Brookline and the Selectmen's Climate Action Committee;

**WHEREAS** the scientific community, including the National Aeronautics and Space Administration (NASA), the National Academy of Sciences, the Environmental Protection Agency (EPA) and the World Meteorological Organization, has concluded that global warming, caused primarily by atmospheric carbon dioxide (CO<sub>2</sub>) produced by the burning of fossil fuels (coal, petroleum, and natural gas), is a serious threat to current and future generations, already producing extreme weather events leading to extensive flooding, severe drought, major hurricanes and a rise in sea levels due to the rapid melting of arctic sea ice;

**WHEREAS** in 2009, government officials from 167 countries responsible for more than 87 percent of the world's CO<sub>2</sub> emissions signed the Copenhagen Accord, adopting the scientific view that increases in global temperature should be kept below 2 degrees Celsius (3.6 degrees Fahrenheit);

**WHEREAS** scientists estimated in 2012 that in order to avoid exceeding this 2-degree limit, future emissions of CO<sub>2</sub> must be limited to 565 gigatons, and financial analysts and environmentalists have calculated that fossil fuel companies and petro-states that operate like fossil fuel companies currently control fossil fuel reserves of 2,795 gigatons – five times the Copenhagen Accord limit;

**WHEREAS** fossil fuel companies, operating for maximum short-term profit at the expense of long-term sustainability, spend great sums of money to influence government in order to avoid paying the true cost of the environmental damage they cause, and continue to explore for even more fossil fuel deposits that could not be burned without drastic acceleration of climate change; and

**WHEREAS** Senate Bill 1225 would require the Commonwealth's Pension Reserves Investment Management Board to fully divest its direct holdings in fossil fuel

companies over a five-year period, although divestment could be terminated if the Board presents clear and convincing evidence that the total value of the divested portfolio has fallen beneath a specified percentage of the hypothetical value of the portfolio if it had not been divested; now, therefore, be it

***RESOLVED***, that the Brookline Town Meeting urges the Massachusetts legislature to enact Senate Bill 1225, An Act Relative to Public Investment in Fossil Fuels, or a successor bill with substantially the same content; and be it further

***RESOLVED***, that the Brookline Town Meeting requests the Town Clerk to promptly send notice of the passage of this resolution to the Governor of the Commonwealth, the members of Brookline's congressional delegation, the President of the Massachusetts Senate and the Speaker of the House, the co-chairs of the Joint Committee on Public Service, the chairs of the Senate and House Ways and Means Committees, and the members of Brookline's state legislative delegation.

Or take any other action relative thereto.

### **ARTICLE 33**

Reports of Town Officers and Committees



AND YOU ARE DIRECTED TO SERVE THIS WARRANT IN ACCORDANCE WITH THE BY-LAWS OF THE TOWN OF BROOKLINE.

HEREOF FAIL NOT, and make due return of this WARRANT, with your doings thereon, to the Selectmen at least FOURTEEN DAYS before the day of said meeting.

Given under our hands and the seal of the TOWN of Brookline, Massachusetts, this 18th day of March, 2014.

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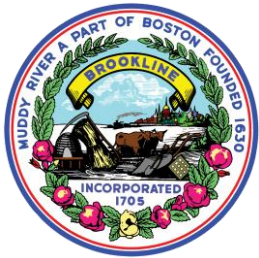
BOARD OF SELECTMEN



**BY VIRTUE OF THIS WARRANT, I THIS DAY NOTIFIED AND WARNED THE INHABITANTS OF SAID TOWN TO MEET AT THE HIGH SCHOOL AUDITORIUM IN SAID TOWN ON TUESDAY, NOVEMBER 19, 2013 AT 7:00 P.M. BY POSTING TRUE AND ATTESTED COPIES OF THE WITHIN WARRANT IN TEN (10) PUBLIC PLACES. ALL OF THIS WAS DONE AT LEAST FOURTEEN (14) DAYS BEFORE SAID MEETING.**

\_\_\_\_\_  
CONSTABLE

\_\_\_\_\_  
DATE



**WARRANT ARTICLE EXPLANATIONS  
FILED BY PETITIONERS FOR THE  
MAY 27, 2014 ANNUAL TOWN MEETING**

**ARTICLE 1**

Submitted by: Board of Selectmen

Article 20 of the November, 2000 Special Town Meeting requires that this be the first article at each Annual Town Meeting. It calls for the Selectmen to appoint two Measurers of Wood and Bark.

**ARTICLE 2**

Submitted by: Human Resources

This article is inserted in the Warrant for any Town Meeting when there are unsettled labor contracts. Town Meeting must approve the funding for any collective bargaining agreements.

**ARTICLE 3**

Submitted by: Treasurer/Collector

This article authorizes the Town Treasurer to enter into Compensating Balance Agreements, which are agreements between a depositor and a bank in which the depositor agrees to maintain a specified level of non-interest bearing deposits in return for which the bank agrees to perform certain services for the depositor. In order to incorporate such compensating balance agreements into the local budget process, the Commonwealth passed a law in 1986 mandating that all such arrangements be authorized by Town Meeting on an annual basis.

**ARTICLE 4**

Submitted by: Board of Selectmen

Section 2.1.4 of the Town's By-Laws requires that each Annual Town Meeting include a warrant article showing the status of all special appropriations.

**ARTICLE 5**

Submitted by: Board of Selectmen

This article is inserted in the Warrant for every Town Meeting in case there are any unpaid bills from a prior fiscal year that are deemed to be legal obligations of the Town. Per Massachusetts General Law, unpaid bills from a prior fiscal year can only be paid from current year appropriations with the specific approval of Town Meeting.

**ARTICLE 6**

Submitted by: Board of Assessors

This article provides for an increase in the property tax exemptions for certain classes of individuals, including surviving spouses, the elderly, the blind, and disabled veterans. The proposed increases, which require annual reauthorizations, have been approved annually since FY89. The estimated cost for FY2015 is approximately \$60,000 and is funded from the tax abatement overlay reserve account.

#### **ARTICLE 7**

Submitted by: Board of Selectmen

The purpose of this article is to make any year-end adjustments to the current year (FY14) budget. In addition, an appropriation for additions to the Lawrence School is included.

#### **ARTICLE 8**

Submitted by: Advisory Committee

This is the annual appropriations article for FY2015. Included in this omnibus budget article are operating budgets, special appropriations, enterprise funds, revolving funds, and conditions of appropriation. This is the culmination of work that officially began with the presentation of the Town Administrator's Financial Plan on February 11<sup>th</sup>. The proposed budget has since been reviewed by numerous sub-committees of the Advisory Committee, the full Advisory Committee, and the Board of Selectmen. The vote ultimately recommended to Town Meeting is offered by the Advisory Committee.

#### **ARTICLE 9**

Submitted by: Arthur Wellington Conquest III and Brooks Ames

The Senior Real Estate Tax Deferral program allows seniors who have lived in Massachusetts for at least 10 years and who have owned and occupied their homes for at least 5 years to defer paying real estate taxes until they sell their home or pass away.

This article seeks to raise the income limit for eligibility for the program from \$40,000 to \$55,000 by tying it to the state's income limit for the senior "circuit breaker" tax credit, which is increased each year according to a formula. The current income limit is \$55,000. In addition, the article seeks to lower the interest charged to participants in the program from 5% to 3%. Seniors have identified high interest as a disincentive to participating in the program.

#### **ARTICLE 10**

Submitted by: Selectmen's Diversity, Inclusion, and Affirmative Action Committee

In May 2013, the Board of Selectmen appointed the Diversity, Inclusion, and Affirmative Action Committee to rewrite the Town's forty-year-old Bylaw which established the Human Relations/Youth Resources Commission, 3.14, and to make the role of the Commission more relevant and effective.

The Committee members have considerable expertise in the areas of diversity, inclusion, recruiting, personnel policies, and civil rights law. After a nine-month process, which included substantial public input, the Committee collaboratively wrote a new Bylaw for the proposed

Diversity, Inclusion, and Community Relations Commission and Department, which would replace the Human Relations/Youth Resources Commission and Division. The Bylaw also provides for a Chief Diversity Officer for the Town, who would most likely be the head of the Diversity, Inclusion, and Community Relations Department.

The Committee recognizes that Article 5.5 of the Town Bylaws, which pertains to Fair Housing, also needs substantial revision. The Committee intends to begin working on that Bylaw now that we have completed 3.14.

There were minority views on several issues:

First, there was a great deal of discussion as to whether the entity being established by this bylaw should be a Department, Division, or Office. The Town Administrator indicated his strong feeling that one-person departments are a problem and he would prefer some other designation. Some members of the Committee agreed with his viewpoint. However, we have used the most expansive term, "Department," in this warrant article so that the discussion can continue and it can be changed later if Town Meeting deems it appropriate.

Second, Martin Rosenthal, a civil rights lawyer, former Selectman, and member of the Committee offers the following thoughts and a few divergent views:

After decades of great interest in our HRYR Commission, I was keenly aware of its structural deteriorations due to decades of "outside" developments that were adopted without revisiting the HRYRC by-law. However, since being appointed to this committee, I was surprisingly astonished by the scope of those complications -- some like the mega-issue of housing reflected in the long and thoughtful Charge we were given by the selectmen, and some less obvious, e.g. better devising a Commission role with the "independent" School system which is so central to our community's "human relations" concerns. About a month ago I publicly voiced pessimism about producing an adequate warrant article for this Spring, and urged that we target the Fall Town Meeting.

With two dissenting suggestions, one minor and one major, I vote with enthusiasm to support the committee's proposal, knowing it will soon be improved by all our usual sausage-making process. My most dire concerns have been obviated by: (1) the selectmen's re-filling of the current HRYRC by some outstanding appointments (see my second "dissent," below), (2) Herculean efforts the last few weeks by our committee, especially Bernard Greene and our chair, Nancy Daly; and (3) our explicit recommendations -- some recent amendments and this committee's Explanation -- for ongoing future revisions, making this a "living by-law."

My two "dissents" are: (1) given the obvious, and indeed explicitly stated concerns about our Fair Housing by-law (5.5), which gave great -- but eventually theoretical -- power to the HRYRC, I propose adding to §3.14.4, after "... regulations to carry out its responsibilities with respect to Fair Housing" the words "*under By-Law 5.5.*" And, (2) far more significant, I prefer to keep *FIFTEEN Commissioners*. I'm not worried about theoretical and unproven fears that the (newly energized and empowered) Commission will have quorum issues or be "unwieldy." Indeed they will need the extra and fully-empowered subcommittees and members; and I reject a

presumption that some of them will be either not reappointed or dis-empowered by becoming non-voting members. *Martin Rosenthal*

## **ARTICLE 11**

Submitted by: Neighborhood Conservation District Commission

Town Meeting enacted the Neighborhood Conservation District by-law at its Fall 2011 Town Meeting. The by-law, which went into effect in June 2012, allows residents to work with the Neighborhood Conservation District Commission (NCDC) to establish a new Neighborhood Conservation District (NCD) with boundaries and guidelines appropriate to maintaining the valued characteristics of their neighborhood. The establishment of a new NCD requires a majority vote at Town Meeting.

On January 27, 2014, residents of Toxteth Street appeared before the NCDC to request its support to establish a Greater Toxteth Neighborhood Conservation District. They had met with neighborhood residents for several months and had developed guidelines they felt would protect their neighborhood from incompatible development without being too burdensome. They submitted an historical report for the area, some of which had been compiled in the early stages of establishing the Lawrence LHD. Two members of the NCDC walked the proposed district with residents and, after discussion, determined that the proposed district had characteristics worthy of consideration as a new NCD and that the proponents had sufficient support to investigate its creation. Following the commission's adopted procedures, it requested the proponents to identify a leadership team and established a sub-committee to work with them on establishing a new NCD.

Following the January 27 meeting, the proponents' team engaged residents of the surrounding streets interested in joining the proposed NCD. They met informally with the Vice-Chair and a staff member to discuss the process and steps to get an article on the warrant for Town Meeting. They held a neighborhood meeting at which several members of the NCDC were present to answer questions and gauge interest. Over 50 residents attended. At the NCD's February 24, 2014 meeting, the neighbors presented the resulting expanded proposed Greater Toxteth NCD's district boundary and a preliminary by-law. The Commission authorized a mailing, including a boundary map, a draft by-law and a response form to all affected property owners to gauge support. Town Meeting members in the impacted precincts were also sent the materials to notify them of the activity. Copies of the map and by-law were also sent to the Planning Board and the Preservation Commissions.

The NCDC held a Public Hearing on March 10, 2014, at which presentations included the proposed by-law, a revised map, and the results of the canvass of property owners. Responses representing 85.7% of the affected property owners were favorable. There were 5.5% opposed and 8.8% who did not respond. The NCDC voted unanimously to forward the Greater Toxteth NCD to Town Meeting. The Preservation Commission voted unanimously to support the by-law at its March 11, 2014 meeting.

The pattern of development of the Greater Toxteth Street Neighborhood includes a generous streetscape with mature plantings and a similarity of scale and configuration of homes. Most sit back farther from the street than is required under current zoning and cover less of their lots than

they are entitled. This pattern contributes to a sense of open space and a wider street than the pavement allows, with homes still close enough to actively contribute to the neighborhood's street-level social dynamic. The neighborhood is predominately single or two-family three storied structures, though they appear to be 2½ stories given the gambrel, cross-gabled, and mansard roof lines that provide spaciousness and light in spite of the close proximity of abutting houses.

Homes are generally centered in their lots, address the street, and most have porches that enhance the neighborhood's social fabric. Broad backyard view corridors are broken only by mature trees and fences. While nestled in a rather dense area, the neighborhood has an abundance of open and green space and many mature trees – traditional characteristics found in Brookline – that soften the near-urban locale. There are a variety of architectural styles that coexist to create a pleasing liveliness that functions as a cohesive neighborhood. The scale, massing and configuration of homes in the neighborhood collectively contribute to a commonality of pattern that is unique relative to the surrounding neighborhoods (Coolidge Corner, Brookline Village, Harvard Street corridor).

The Greater Toxteth NCD by-law and guidelines focus on the character of the neighborhood and the massing, context and the relation of structures to each other and the commonly shared streetscape and view sheds. Its goal is to ensure that significant additions and new buildings are compatible with the existing historic patterns of scale, massing, and siting in the district; to maintain streetscapes, view sheds, green open space and mature trees by extension; and, to respect adjoining properties and the neighborhood as a whole. It contains review thresholds, including additions to the exterior volume of existing properties that increase the above-grade habitable building area by 15% or more or enclosures of front porches. (Entryway vestibules under 50 sq. ft. are deemed to be consistent with the character of the neighborhood.) The front plane of homes should not move forward towards the street. Extensions such as porticos, bay windows, and entrance overhangs may be restricted from extending beyond current zoning setbacks for the main structure of the home. To preserve the current streetscape setbacks, new dwellings and their structures should be similarly oriented, and have similar yard depths and similar distances between buildings as their preexisting counterparts. Additions that increase the habitable space of existing structures more than 33%, or new structures that are 33% larger than the previously existing structure, are generally to be considered not in conformance with neighborhood characteristics. No new or replacement structure may come forward of the previously existing structure's front plane on that property. All work inside a building is exempt from review. Routine maintenance and projects under the 15% threshold are exempt from review including changes such as, terraces, replacement doors and windows, gutters, cladding, roofing material, as well as other features outlined in the proposed by-law.

## **ARTICLE 12**

Submitted by: Fred Lebow

### **Additions to the Noise By-law**

#### **Definitons**

**Portable Leaf blowers:** A leaf blower is considered portable for the purposes of the article to be hand carried or configured as a backpack. [trying to capture this]

(p) Noise Level: The Sound Pressure Level measurements shall be made with a Type I or Type II sound level meter as specified under American National Standard Institute (ANSI) or IEC 61672-1 standards

(u) Sound Level Meter: An instrument metering Type I or Type II American National Standard Institute (ANSI) standards or the European IEC 61672-1 standards, consisting of a microphone, amplifier, filters, and indicating device, and designed to measure sound pressure levels accurately according to acceptable engineering practices.

Emergency Generators: Emergency generators as required by the latest edition of the state building code are exempt from the Noise Bylaw. [consistent with state building code]

Background Noise Levels at night: Background noise levels at night for the enforcement of this Bylaw will be considered to be 10 dBA lower than day time background noise.

Section 8.15.6 f Leaf Blowers. Insert Line 6 to read  
(ANSI) or IEC 61672-1 methodology.

Section 8.15.6 f Leaf Blowers. Insert Line 8 to read  
The approved ANSi or IEC Noise Limit under this By-law. However , any

Section 8.15.6 f Leaf Blowers. Insert line 15 to read  
Unit has as affixed manufacturer's ANSI, IEC or town label. Any portable

Section 8.15.6 f Leaf Blowers. Insert line 18 to read  
Operation after January 1, 2010 without a manufacturer's ANSI or IEC label

### **ARTICLE 13**

Submitted by: Nathan Bermel

Tobacco use is a leading cause of preventable morbidity and mortality in the United States; approximately 443,000 people die prematurely each year and another 8.6 million live with a serious illness due to tobacco use.<sup>1</sup> The negative consequences of using tobacco products include but are not limited to: cancers, respiratory and cardiac diseases, negative birth outcomes, and susceptibility to infectious diseases.

Despite current laws that prohibit the sale of tobacco products to minors, youth smoking remains a major public health problem. In the 24<sup>th</sup> Surgeon General's Report, U.S. Surgeon General David Satcher documented that smoking among U.S. high school students increased thirty three percent (33%) from 1992-1998.<sup>2</sup> According to a 2000 survey conducted by the Centers for Disease Control and Prevention, eighty two percent (82%) of smokers tried their

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<sup>1</sup> Center for Disease Control and Prevention. Smoking-attributable mortality, years of potential life lost, and productivity losses—United States, 2000-2004. MMWR Morb Mortal Wkly Rep. 2008; 57(45):1226-1228.

<sup>2</sup> Centers for Disease Control and Prevention, *Tobacco Use Among High School Students-United States, 1997*, 47 MORBIDITY & MORTALITY WKLY. REP. 229 (1998)

first cigarette before the age of eighteen.<sup>3</sup> These numbers are alarming because the earlier a young person's smoking habit begins, the more likely he or she will suffer those diseases caused by smoking.<sup>4</sup> What is more, once someone becomes addicted to tobacco products, it is exceptionally difficult for that person to stop using them.<sup>5</sup> Individuals may start simply experimenting with tobacco use, but before they are aware of their own level of addiction, they begin to want, then crave, then need cigarettes, at which point they are unable to quit.<sup>6</sup> To break this pattern, Brookline must implement measures to make it more difficult for youth to access tobacco.

Currently, students at Brookline high school have easy access to tobacco products. School rules prohibit the use of tobacco products on school property, and yet throughout the day many students can be seen smoking in front of the high school. This is because the Greenough Street sidewalk opposite the school entrance is defined as public property rather than school property. This allows students to smoke, without restraint, a mere fifteen yards from the school's entrance. Students take advantage of this, and from eight o'clock to sunset one can count on smokers being in front of the high school.

While at the moment legal, this pattern creates significant problems for the community. One issue is the presence of secondhand smoke. Any exposure to secondhand smoke is enough to damage health; possible effects include lung cancer, heart disease, and respiratory issues (citation:[http://www.cdc.gov/tobacco/data\\_statistics/fact\\_sheets/secondhand\\_smoke/general\\_facts/](http://www.cdc.gov/tobacco/data_statistics/fact_sheets/secondhand_smoke/general_facts/)) Because Greenough Street is the initial post-school social destination for hundreds of students daily, many are consistently at risk of inhaling secondhand smoke. Implementing the no-smoke zone would remove any potential hazard by relocating smokers away from the high school. In addition, undesirable fumes, odors, and litter would also be eliminated.

Implementing the no-smoke zone would also greatly reduce the number of new student smokers. For some in the high school, especially freshmen, the highly visible smokers are perceived to have status. Joining the group of smokers provides some with a readily available social group. By relocating the currently accessible smokers, fewer students will be negatively influenced.

Additionally, present smokers will be less likely to smoke. Because of students' current accessibility to places to smoke, all of five minutes are needed to go out front and smoke a cigarette. Throughout the day there are endless opportunities to do so, such as the five minutes between each class, thirty minutes for lunch, and up to sixty minutes during any free blocks. These times are being taken advantage of, and by increasing the distance smokers have to travel, there will be less time and fewer opportunities for students to smoke.

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<sup>3</sup> Centers for Disease Control and Prevention, "Youth Surveillance- United States 2000," 50 MMWR 1 (Nov. 2000).

<sup>4</sup> Emanuela Taioli & Ernst L. Wynder, *Effect of the Age at Which Smoking Begins on Frequency of Smoking in Adulthood*, 325 NEW ENG. J. MED. 968-969 (1991).

<sup>5</sup> See U.S. Dep't of Health and Human Servs., *THE HEALTH CONSEQUENCES OF SMOKING-NICOTINE ADDICTION: A REPORT OF THE SURGEON GENERAL* iii-v (1988).

<sup>6</sup> Difranza JR, Wellman RJ, Mermelstein R, et al. The natural history and diagnosis of nicotine addiction. *Current Reviews in Pediatrics*. 2011;7(2):88-96.



A similar law was implemented at Newton North High School in 2008. In just 3 years, the percentage of students who said they had smoked in the last thirty days declined from (13%) to (4%) and daily use of tobacco was reduced by more than fifty percent. Regular tobacco users also reported a decline in their use. (9.1% of girls and 13.1% of boys)

A no-smoke zone around the high school would help curtail Brookline's youths' access to tobacco and nicotine products and potentially reduce youth smoking rates within the town. 90% of smokers in the United States start to smoke prior to age 21.<sup>7</sup> However, people who reach the age of 21 as a non-smoker have only a 2% chance of ever becoming a smoker. This law would significantly decrease the number of students who started smoking at an early age. For these reasons, there is interest in implementing a 900-foot no-smoke around Brookline High School.<sup>8</sup>

The intent of this warrant article is to allow the town of Brookline to help curtail youth smoking. This warrant article is comparable to tobacco laws that have been passed in Newton.

#### **ARTICLE 14**

Submitted by: Nathan Bermel

Tobacco use is a leading cause of preventable morbidity and mortality in the United States; approximately 443,000 people die prematurely each year and another 8.6 million live with a serious illness due to tobacco use.<sup>9</sup> The negative consequences of using tobacco products include but are not limited to: cancers, respiratory and cardiac diseases, negative birth outcomes, and susceptibility to infectious diseases.

Despite current laws that prohibit the sale of tobacco products to minors, youth smoking remains a major public health problem. In the 24<sup>th</sup> Surgeon General's Report, U.S. Surgeon General David Satcher documented that smoking among U.S. high school students increased thirty three percent (33%) from 1992-1998.<sup>10</sup> According to a 2000 survey conducted by the Centers for Disease Control and Prevention, eighty two percent (82%) of smokers tried their first cigarette before the age of eighteen.<sup>11</sup> These numbers are alarming because the earlier a young person's smoking habit begins, the more likely he or she will suffer those diseases caused by smoking.<sup>12</sup> What is more, once someone becomes addicted to tobacco products, it is

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<sup>7</sup> *Preventing Tobacco Use Among Youth and Young Adults: A Report of the Surgeon General*. Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health;2012.

<sup>8</sup> Bolton MM. Tobacco buying age now set at 21. *Boston Globe* May 18, 2013.

<sup>9</sup> Center for Disease Control and Prevention. Smoking-attributable mortality, years of potential life lost, and productivity losses—United States, 2000-2004. *MMWR Morb Mortal Wkly Rep*. 2008; 57(45):1226-1228.

<sup>10</sup> Centers for Disease Control and Prevention, *Tobacco Use Among High School Students-United States, 1997*, 47 *MORBIDITY & MORTALITY WKLY. REP*. 229 (1998)

<sup>11</sup> Centers for Disease Control and Prevention, "Youth Surveillance- United States 2000," 50 *MMWR* 1 (Nov. 2000).

<sup>12</sup> Emanuela Taioli & Ernst L. Wynder, *Effect of the Age at Which Smoking Begins on Frequency of Smoking in Adulthood*, 325 *NEW ENG. J. MED.* 968-969 (1991).

exceptionally difficult for that person to stop using them.<sup>13</sup> Individuals may start simply experimenting with tobacco use, but before they are aware of their own level of addiction, they begin to want, then crave, then need cigarettes, at which point they are unable to quit.<sup>14</sup> To break or change this pattern, Brookline must make it more difficult for merchants to sell to minors. If teenagers have difficulty buying tobacco, the initiation of tobacco use can be delayed or prevented.<sup>15</sup>

Prohibiting the sale of tobacco and nicotine containing products to people under the age of twenty-one would help curtail Brookline's youths' access to these products and potentially reduce youth smoking rates within the town. As the law currently stands, any person nineteen years or older can legally purchase and consume tobacco products. At Brookline High School, this means that a significant percentage of current seniors will be able to legally purchase tobacco products this year.<sup>16</sup> It should be noted that 90% of people who purchase cigarettes for distribution to minors are between the ages of 18 and 20.<sup>17</sup> Since, under usual circumstances, students do not reach twenty-one years of age while still enrolled in high school, increasing the legal age of consumption would greatly reduce the number of students in Brookline High School that could purchase tobacco products. By decreasing the number of eligible buyers in high school, this warrant article could help reduce youth smoking by decreasing the access of students to tobacco products. 90% of smokers in the United States start to smoke prior to age 21.<sup>18</sup> However, people who reach the age of 21 as a non-smoker have only a 2% chance of ever becoming a smoker. For these reasons, there is interest in extending the benefits of restricting tobacco sales to minors to apply to all individuals under the age of 21 in Brookline.<sup>19</sup>

The intent of this warrant article is to allow the town of Brookline to help curtail youth smoking. This warrant article is comparable to tobacco laws that exist in other towns. Locally, warrant articles that increase the age of consumption for tobacco products to twenty-one have passed in Needham, Ashland, Dover, Canton, and Sharon without issue. Twenty-one (21) is now set to become the minimum age of purchase for tobacco and nicotine products in New York City.

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<sup>13</sup> See U.S Dep't of Health and Human Servs., THE HEALTH CONSEQUENCES OF SMOKING-NICOTINE ADDICTION: A REPORT OF THE SURGEON GENERAL iii-v (1988).

<sup>14</sup> Difranza JR, Wellman RJ, Mermelstein R, et al. The natural history and diagnosis of nicotine addiction. *Current Reviews in Pediatrics*. 2011;7(2):88-96.

<sup>15</sup> U. S. Dep't of Health & Human Servs, PREVENTING TOBACCO USE AMONG YOUNG PEOPLE: SURGEON GENERAL'S REPORT (1994).

<sup>16</sup> Hal Mason, Assistant Headmaster, Brookline High School

<sup>17</sup> Difranza JR, Wellman RJ, Mermelstein R, et al. The natural history and diagnosis of nicotine addiction. *Current Reviews in Pediatrics*. 2011;7(2):88-96.

<sup>18</sup> *Preventing Tobacco Use Among Youth and Young Adults: A Report of the Surgeon General*. Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health;2012.

<sup>19</sup> Bolton MM. Tobacco buying age now set at 21. *Boston Globe* May 18, 2013.

## **ARTICLE 15**

**Submitted by:** Selectmen's Brookline Place Advisory Committee

This article is submitted by the members of the Brookline Place Advisory Committee (BPLAC) appointed by the Board of Selectmen, as well as a resident. The Committee was given the responsibility of reviewing and analyzing current physical and economic conditions, zoning, proposed conceptual building massing and the impacts of the proposed project by affiliates of Boston Children's Hospital (BCH), open space, and the locations, size and design of parking facilities for the GMR-2.0 District, consisting of the entire block of parcels at 1-5 Brookline Place (the "Site") bounded by Washington Street (Route 9), Pearl Street, and Brookline Avenue. In addition, BPLAC was tasked with reviewing and analyzing the connectivity of the Site with adjacent buildings, the Brookline Village MBTA stop and the Route 9 / Brookline Avenue roadways, along with its relationship with the planned Gateway East improvements.

### **The BPLAC Committee and its Focus**

BPLAC consisted of 14 individuals, including nearby residents and business owners, plus residents with professional backgrounds and expertise in architecture, landscape architecture, commercial development, finance, planning, and transportation planning from the Board of Selectmen, Planning Board, Economic Development Advisory Board, Zoning By-Law Committee, and Transportation Board. In addition, the Committee was staffed by Kara Brewton, the Town's Economic Development Director, and Jennifer Dopazo Gilbert, the Town's Special Counsel for Brookline Place. BPLAC also retained expert consultants to review the issues of financial feasibility and parking requirements. Environmental conditions and proposed remediation was reviewed by both the Town's Special Environmental Counsel and independent Licensed Site Professional. Given the complexity of the issues, there were 12 committee and subcommittee meetings, and countless hours of additional volunteer work by Committee members. Neighborhood representatives attended many of the meetings; they were given the opportunity to, and did, actively participate in the process.

The Committee's fundamental charge was to consider zoning amendments that would permit appropriate development while minimizing impacts on the public and adjacent neighborhoods. The proposed zoning changes utilizes several means to achieve that goal: Floor Area Ratio (FAR), varying height limitations to form a building envelope, open space requirements, no build zones, pedestrian amenity requirements, Transportation Demand Management reporting requirements, and on-site parking limits.

Specifically, the Committee focused their work on the following questions: (i) whether zoning should be changed to permit all the allowed parking to be built above-ground; (ii) if the parking is allowed to be above-ground, what counterbalancing amenities should be required; and (iii) writing zoning that applies to the entire GMR-2.0 District rather than for development on one lot of a particular size.

### **The 2007-2009 Scheme**

If adopted by Town Meeting, this zoning amendment would modify the current GMR 2.0 District zoning adopted in 2004-2005, as amended in the spring of 2008, which was adopted

after extensive meetings with a Project Review Team to facilitate the redevelopment of 2-4 Brookline Place (2 BP) by BCH. In 2007, a ground lease and environmental remediation agreement was negotiated with Winn Development Company, the Town, and BCH. A special permit for 2-4 Brookline Place was applied for by BCH in the fall of 2008 and was issued by the Zoning Board of Appeal in spring, 2009.

The 2009 special permit allowed for an 8 story office building at 2-4 Brookline Place with 252,596 square feet (SF) and 586 new parking spaces in 5 ½ below grade levels of parking. The remainder of the block consisting of the building and garage at 1 Brookline Place containing approximately 105,120 SF and 377 parking spaces and the building at 5 Brookline Place containing approximately 10,711 SF were to remain unchanged. The 2009 scheme would have had a total of 963 parking spaces to service the site.

Because the 2009 plan and associated business terms relied on the Town acquiring the 2BP property and then leasing it back to BCH, the Town was particularly interested in having contaminated soil and groundwater associated with the proposed below-ground parking garage properly removed and disposed. The prior redevelopment scheme required foundations consisting of a deep perimeter foundation wall (slurry wall) extending more than 100 feet below the ground surface to control groundwater by intercepting the bedrock. Due to the extensive costs required to construct the subsurface parking in the 2009 scheme, and the lower projected rental rates achievable in the current market, BCH has been unable to develop the 2-4 Brookline Place project under the existing 2009 special permit.

### **The Current Proposal**

The current proposed development concept consists of less square footage than the 2009 special permit, with an 8-story office building of 182,500 SF at 2 Brookline Place and a 47,000 SF medical office space expansion of the 6-story 1 Brookline Place (1 BP). The existing 4-story parking garage would be replaced with a 6 ½-story, 683-space garage, resulting in 248 net new spaces for the overall Site. The proposed garage includes reusing the existing half story of partially below ground spaces at the 1 BP garage. The ground is unsuitable to support the proposed structures in its current condition. The current concept is to design a slab and foundation system, with footings only 4' below grade, and then drilling 2' diameter holes an additional 6' down, and reinforcing the soil with "geopier" sleeves and fill, effectively making the soil around it denser. This methodology would replace the need for deep foundations (e.g., driven piles, drilled shafts or cast-in-place piles). Since groundwater is approximately 8' below the surface, BCH proposes to design the foundation system that requires minimum excavation and dewatering, thereby reducing impacts of the removal of contaminated soils and groundwater.

### **Project Feasibility Financial Analysis**

The Town's real estate finance consultant, Pam McKinney, was asked to review the financial projections for the development, and opine on its feasibility, working with the BPLAC Finance Subcommittee. In doing her analysis, Ms. McKinney had access to Boston Children's Hospital financial projections for three development scenarios: (i) all parking above grade in one garage; (ii) building five levels of parking below grade at 2 Brookline Place while also retaining and

expanding the existing parking garage at 1 Brookline Place; and (iii) building two levels of parking below grade in a larger footprint than the building above at 2 Brookline Place while expanding the existing parking garage. Ms. McKinney also had access to detailed construction cost estimates from Suffolk Construction Company for these three scenarios, and market data regarding comparable medical office properties and rents from Frank Nelson at Cushman & Wakefield. She also has access through her other work to property and financial information of similar properties in the Fenway and Longwood Medical Areas, as well as other industry databases. Ms. McKinney took the BCH financial models and made adjustments throughout the pro-forma, taking the point of view of an appraiser, as if the project were seeking underwriting for financing. The McKinney model showed a very similar financial outcome as BCH presented for all scenarios, and it agreed with BCH that there would be a significant loss to the developer for the two scenarios with below ground parking and a reasonable return on cost for the scenario with above-ground parking.

Following significant discussion and analysis of various below-ground options, BPLAC agreed that a proposed zoning amendment should consider removing the constraint of the 2004-2005 zoning which has made the 2009 project unfeasible, viz. the requirement that 60% of the required parking be subsurface. However, prior to agreeing to above-ground parking, BPLAC analyzed shadow and visual impacts of the proposed development to Station Street and Village Way. As a result of these studies, BPLAC agreed that the overall massing should be broken up, with the 2 BP building having a smaller footprint (and shallower north-south dimension), sited at the southernmost edge of the GMR district, in combination with an addition to the existing 1 BP building towards Washington Street. The Committee also favored the shift of the bulk of the open space towards the Brookline Village T-station.

### **Parking and Transportation Issues**

The size of the expanded parking garage was a very important aspect of the Committee's study. BPLAC's work resulted in BCH's initial proposal of an 8-story garage to be reduced to 6 ½ stories. BPLAC also worked with the Town's parking consultant, Nelson-Nygaard, to reduce the proposed parking to a minimum while not overburdening the surrounding streets with parking overflow. BCH has agreed that the garage will not be used for satellite parking for the Longwood Medical Area. The proposed 683 stall garage reflects the minimum number of spaces recommended by Nelson-Nygaard that would need to be exclusively available for the entire GMR-2.0 District. Although Nelson-Nygaard did not recommend setting a maximum number of parking spaces, BPLAC felt that capping the overall capacity for vehicle accommodation at the site was an important component to any zoning change that allowed significant above-ground parking. In addition to the number of spaces, BPLAC also added bulk and dimensional zoning limits to the size of the parking garage: counting any above-ground parking towards the Floor Area Ratio (similar to Coolidge Corner); limiting the height of any structure at the northeast corner of the site (closest to Village Way homes) to 55', where structures would otherwise have the largest shadow impacts on surrounding properties; and creating a "no-build" zone where the proposed open space is located at the northwest corner of the site. Both Nelson-Nygaard and BCH suggested that allowing accommodation for additional vehicles via valet or tandem parking within the parking structure would be a helpful mechanism for managing peak parking demand. BPLAC agreed that by special permit, the Board of Appeals could allow accommodation of an

additional 20% of vehicles within the parking areas that are striped for 683 parking stalls via parking management should the need arise. It should be noted that as of the warrant closing, Boston Children's Hospital has agreed to significant mitigation and community benefit funding for the Gateway East and Riverway crossing areas, most of which would be paid to the Town conditional upon the Board of Appeals approving *at least* 683 parking stalls with the ability to accommodate and an additional 20% vehicles.

Nelson-Nygaard recommended to BPLAC that the most important tool the Town has for controlling traffic at the site is a required, robust Transportation Demand Management (TDM) plan with annual reporting and a mechanism to require on-going adjustments once the building is in full operation. Those recommended measures are now incorporated in the proposed zoning as well as an agreement from BCH to commit to such a condition for the Special Permit. Additionally, BPLAC recommended the zoning be amended to require a TDM plan for any major impact project. Finally, the 25% reduction of minimum parking requirements currently allowed under zoning conditional upon a TDM plan is now simply the new minimum parking requirement for major impact projects in the GMR-2.0 District.

### **Other Zoning and Site Plan Issues**

The proposed amendment modifies Section 5.06(d) to facilitate integrated development of the GMR-2.0 District to include all of 1 Brookline Place, 2 Brookline Place and 5 Brookline Place. The zoning structure also facilitates the creation of potential new lot lines (1 Brookline, 2 Brookline, 5 Brookline and the garage on separate parcels) to allow marketability of new lot configurations to separate owners while retaining site-wide zoning controls. In addition to district-wide FAR and parking requirements, the proposed zoning also describes the type of open space desired for the Site, and sets a minimum open space for the entire block of 35%, up to 55% of which could be made of hard surfaces for walks and plaza areas.

As described earlier, the proposed zoning imposes a "no-build" zone at the northwest corner of the site where the bulk (but not all) of the open space is proposed, closest to the Brookline Village MBTA station. The zoning also describes a minimum 45' wide area for pedestrian passage between the 2 BP and 1 BP / garage buildings, connecting the Brookline Village MBTA Station to the intersection of Brookline Avenue and Washington Street, reinforcing the pedestrian desire line identified in the Gateway East/ Village Square master plan.

Adjacent to Washington Street (Route 9), the general sense of the Committee was that the building/street interface should be similar to the new Dana Farber building on Brookline Avenue in the Longwood Medical Area, which has approximately 18'in width of outdoor seating, sidewalks, and landscaping between the building and the street. Because the property line along Washington Street and Brookline Avenue is generally located in the middle of this proposed building-street distance, the proposed zoning includes a building setback of 9'. BPLAC felt that the specific building/street interface should be designed during the permitting process. Therefore, as currently exists with the general Zoning By-law, relief from the setback may be sought by special permit to accommodate this design process. The Gateway East / Village Square master plan proposes a double row of trees (street trees and ornamental trees) along Washington Street to the extent feasible. BPLAC noted that this goal should be carried forward in future design refinement of both the Gateway East plans (via the MassDOT process) as well as the permitting process for Brookline Place (via the Planning Board, Design Advisory Team, Board of Appeals).

## **Companion Warrant Articles**

Three companion non-zoning warrant articles are being filed by the Board of Selectmen, which if passed at Town Meeting, would authorize the Selectmen to: (i) accept on behalf of the Town a Pedestrian Easement that incorporates the “no-build” zone at the northwest corner of the District and the 45’ wide pedestrian passage described above; (ii) accept a Restrictive Covenant to protect the tax certainty for the proposed new development at Brookline Place; and (iii) release the 2007 agreements being held in escrow related to the prior development and enter into any new agreements or amendments to carry out the terms of a Memorandum of Agreement with respect to such proposed development, including mitigation and community benefits.

## **What to Expect**

Assuming the proposed zoning and companion warrant articles are passed by Town Meeting, Boston Children’s Hospital anticipates filing a Special Permit by Fall 2014, and receiving a Special Permit in Spring 2015. Construction could then start around the end of 2015, and could be complete as early as 2019. In addition to mitigation and community benefits, the estimated new growth tax revenue if and when this Site is developed as proposed is more than \$2 million per year.

## **ARTICLE 16**

Submitted by: Andrew Fischer

The Brookline Place rezoning proposal is complex, and Town staff and citizens have worked diligently to draft zoning changes which are acceptable to both the developer and the town, to be approved by Town Meeting.

The majority of Town Meeting Members supported Warrant Article 10 in the Fall 2013 Town Meeting, a zoning change that would have reduced parking requirements for new construction. (Article 10 failed because it required a 2/3 vote, but 60% of Town Meeting Members voted in favor of reduced parking minimums for studio and one bedroom apartments). In light of this, it isn't clear that this Town Meeting is willing to support a development at Brookline Place that includes as many as 820 parking spaces, and the amount of parking needed is an issue that should be before town meeting.

It is possible, even reasonable, that Town Meeting would only approve a Brookline Place zoning scheme with fewer spaces, due to concerns about the height and mass of the parking garage, the added congestion to Brookline Avenue and Route 9, or simply the desire to not serve as satellite parking for the Longwood Medical Area. It is possible that Town Meeting would only accept a parking garage that was smaller or one that had some number of the permitted parking spaces underground, or both. Whatever the reason, it was important to ensure that Town Meeting had the option of approving a rezoning for Brookline Place with fewer parking spaces permitted, given restrictions that any amendments to the warrant article be "within the scope" of the warrant article.

This warrant article is intended to allow this debate and to allow Town Meeting to vote on a modified parking requirement suitable for the development rather than be limited to an up or down vote on a 6 story parking garage with 820 parking spaces. This warrant article is identical to the principal Brookline Place zoning article, with the following exceptions:

1. The two tiered garage height is reduced 30 feet, from 65 to 35 and from 55 to 25 (4.c.iii). This eliminates the top three floors of the otherwise 6 1/2 floor garage.
2. The footprint that the parking garage or garages occupy cannot exceed 30,000 square feet (4.c.iv). This is about 10% larger than the garage recently proposed by the developer, and is included to ensure that the garage doesn't become twice as fat should it become half as tall.
3. The FAR maximum is reduced from 3.45 to 2.90 (Section 5.00, Table 5.01). Because at-grade and garage parking contributes to the square footage calculation in FAR, the FAR reduction ensures that the maximum allowable square footage of the medical office buildings themselves remains the same.
4. The maximum amount of additional vehicles which can be parked tandem, valet, or with auto lifts, with a special permit, is reduced from an additional 20% to zero.

It is important to note that this article doesn't preclude a developer from constructing some or all of the garage below grade -- and that the below grade spaces would be in addition to the roughly 380 above ground spaces this article permits. There is soil contamination on the site, rendering underground parking technically feasible but more expensive than it might be otherwise. This article doesn't reduce the total number of parking spaces possible under the zoning; it reduces the total number of spaces at or above ground.

The intent of these changes isn't to make the Brookline Place project uneconomic. Rather, it is to ensure that Town Meeting has significant latitude in choosing the maximum amount of at or above ground parking permissible. The petitioner is hopeful that a substantial number of Town Meeting Members will speak up at hearings before the Board of Selectmen, the Advisory Committee, the Zoning Bylaw Committee, and in other forums so that consensus on the "right" amount of parking can be reached. If consensus is reached, a new number of parking spaces above ground could be determined, between the roughly 380 this article would allow and the 820 the other article would allow. This warrant article provides a few "knobs" the community can turn to arrive at that number. The maximum height of the garage can now be adjusted within the 3 story difference between the two articles, and the maximum additional vehicles than can be parked can be altered to be any value within the 0% to 20% range provided by the two articles.

The petitioner hopes that consensus will be reached, and that the Town Meeting will overwhelmingly support rezoning of the Brookline Place parcels with the "right" amount of at-grade or above ground parking.

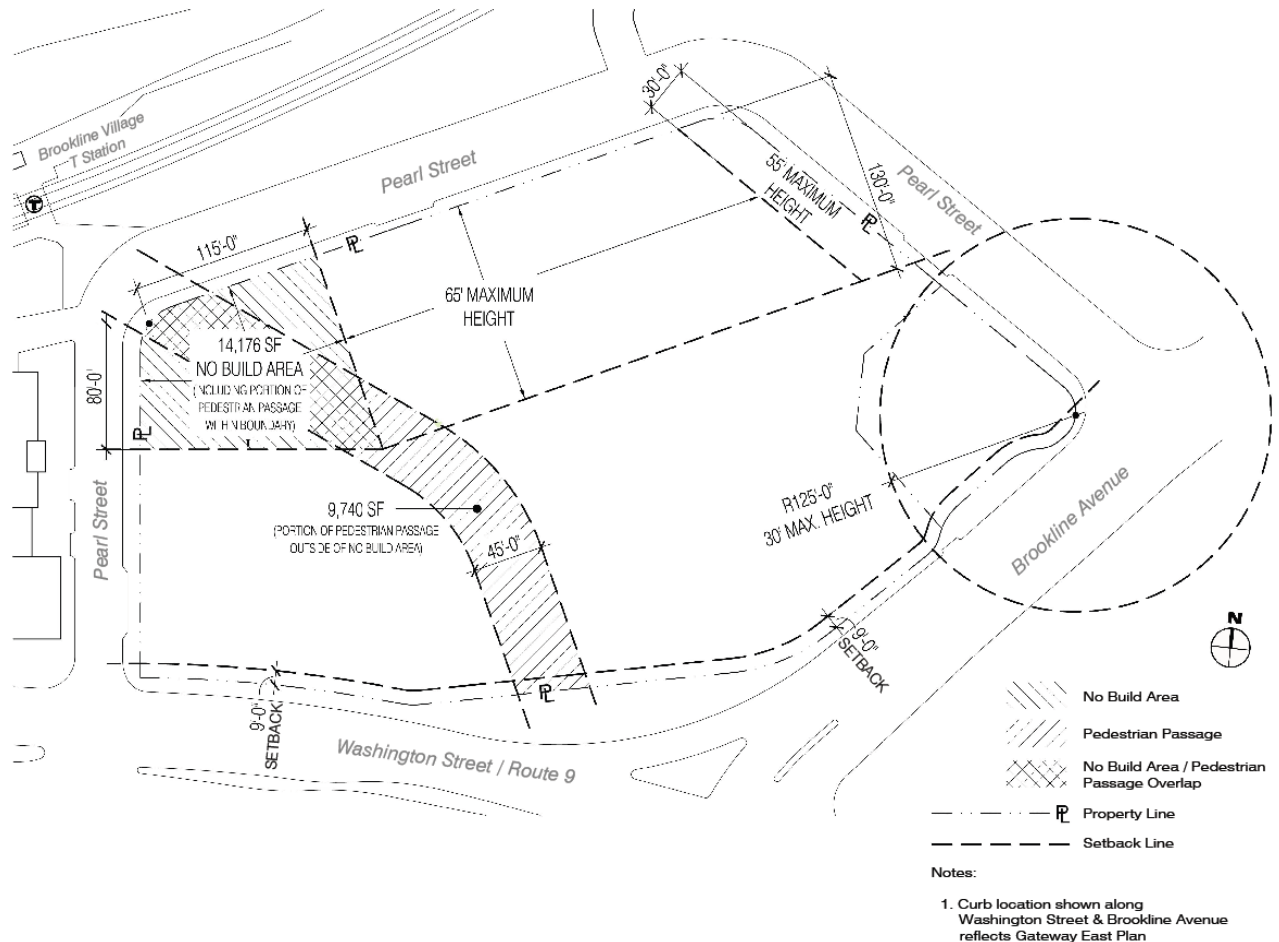
## **ARTICLE 17**

**Submitted by:** Board of Selectmen

As part of Boston Children's Hospital proposed development at the site known as Brookline Place, it has offered to grant an easement over its land for a pedestrian walkway through the Brookline Place site and to maintain an open space with pedestrian area along Pearl Street and situated to the north of the proposed 2-4 building and to the east of the proposed new garage. The easement area will be depicted on the Plan attached to the Easement Agreement. This Article, if passed by a two-thirds vote will allow the Selectmen to execute the necessary Easement Agreement and to record the easement at the Norfolk Registry of Deeds and/or if



required the Norfolk Registry District of the Land Court following the granting of a Special Permit and other necessary permits associated with the proposed redevelopment. In addition, this easement will create an interest in land which will serve as the basis for the enforcement of a Restrictive Covenant that will provide future tax-certainty for the new development proposed by Boston Children's Hospital. The following is an illustration showing the Easement area:



## **ARTICLE 18**

**Submitted by:** Board of Selectmen

As set forth in the terms of the Restrictive Covenant, this Article, if passed, will provide a Restrictive Covenant that runs with the land and provides tax-certainty for a 95-year term for the new development at 2-4 Brookline Place as well as the proposed additions to One Brookline Place and the net new parking spaces in the garage. It also, will allow the Board of Selectmen to enter into a tax equivalency agreement or other agreement(s) consistent with the terms of the Restrictive Covenant should all or a portion of the properties be conveyed to any entity that may qualify for real estate tax-exemption in the future.

## **ARTICLE 19**

**Submitted by:** Board of Selectmen

This Article, if approved by majority vote, will allow the Selectmen to release the agreements still being held in escrow for the prior 2007 project at Brookline Place and to enter into new agreements and/or amendments thereto to ensure that the Town receives the benefits and protections as set forth in the Memorandum of Agreement for the current proposed development among the Town, Children's Brookline Place, LLC and Children's One Brookline Place, LLC, upon such terms and conditions as the Board deems in the best interest of the Town with respect to the current proposed development of the site known as Brookline Place.






## **ARTICLE 20**

**Submitted by:** Daniel Simkovitz and Elena Budrene-Kac

The three properties known and numbered as 273, 277 and 281 Mason Terrace are all pre-existing non-conforming two families. All three properties were built around the 1920s and located in a single-family district north of Beacon Street, off of Summit Avenue, and southeast of Brighton. The properties are immediately adjacent to the T-6 district which covers the properties on the adjacent Winchester Street. Due to the topography and the significant slope from Mason Terrace down to Winchester Street, all three properties were built with basements with ceiling that approach 18 feet in height, however, because these properties are two families located in the single family district, they cannot seek relief to convert the basement to habitable space as would be allowed, by special permit, in a T-6, two family district.

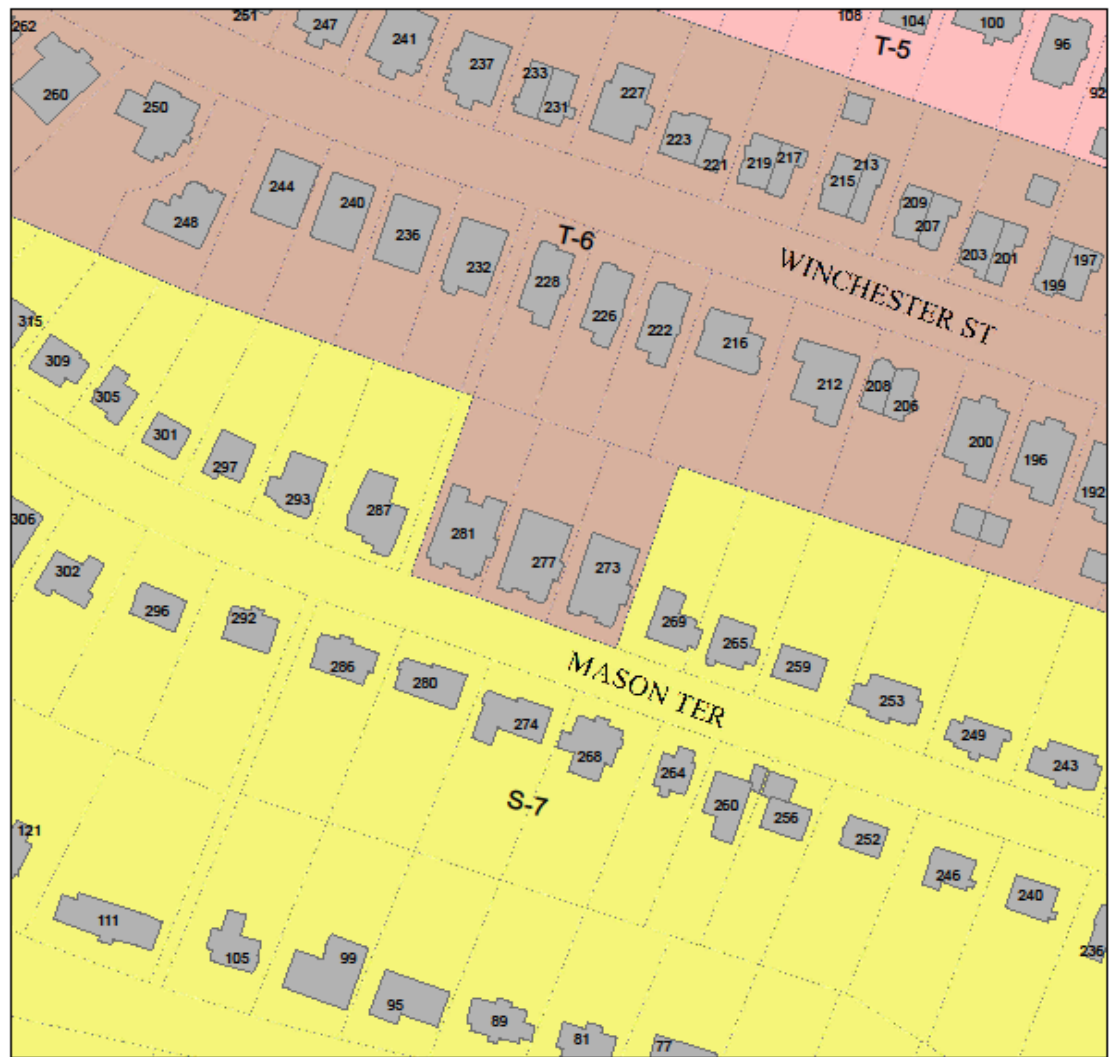
**Mason Terrace  
Proposed Zoning  
Zone Change  
S-7 to T-6**  
Town of Brookline,  
Massachusetts

**Legend**

-  Buildings
-  Zone Change Area
-  S-7 Zone
-  T-5 Zone
-  T-6 Zone



1 inch = 100 feet  
Map created by Brookline GIS on 03/22/2014



## **ARTICLE 21**

Submitted by: Diane Gold

The Neighborhood of Buttonwood Village in South Brookline, until recently, consisted of modest low slung detached single family homes built mostly in the 1950's. It is one of the few neighborhoods left in Brookline where a family can afford to buy a single family home with a yard for less than a million dollars.

Over the last decade, developers have been transforming our neighborhood, demolishing the original modest homes and shoehorning into their place luxury condos and 2 family dwellings. The new construction has been completely out of character with respect to the size, scale and density that is prevalent in the rest of the neighborhood.

This originally started encroaching towards Meadowbrook Road contiguously from the denser housing stock along Clyde Street, but the most recent development of 4 units at 28/32 Meadowbrook resulted in 2 enormous, unsightly 2 family condos smack dab in the middle of our neighborhood, surrounded by single family houses on both sides and across the street.

Much to the dismay of the neighbors, we have learned that despite our collective dislike at what these developers are doing to the character of our neighborhood, according to the plan of the town zoning regulations, the developers can do this by right. In fact, it has been explained to us that given the economics of conversion to two family dwellings, we should expect this profit maximizing behavior of the developers to continue where allowed until every detached single family home has been eliminated.

We have been told that if we want to preserve the character of our neighborhood, we need to change the zoning. As we find that the current zoning is incongruous with the current character of the neighborhood, we plan to utilize the tools of democracy and request a zoning change at this spring's Town Meeting.



Our primary goal is to prevent the conversion of the remaining detached single family housing into two family dwellings and town houses. Unfortunately, the smallest existing single family zoning district is an S-7. Most of the lots along Meadowbrook, Larkin and Whitney are four to five thousand square feet in size, which does not fulfill the minimum lot size requirement for an S-7. The neighborhood does not wish to rezone itself into non-conforming status.

We are thus proposing to create a new single family district where the minimum lot size is 4,000 square feet, an S-4. To minimize the changes that we would impose upon these houses, we would base the dimensional requirements for the proposed S-4 zone by taking the T-5 requirements from Table 5.01 of the Zoning By-Laws, and removing the line items for a "2-family dwelling" and a "1-family attached dwelling." The remaining two line items would be for a "1-family detached dwelling" with a minimum lot size of 4,000 square feet, and "Any other structure or principal use."

## Proposed Meadowbrook Zoning Change T-5 to S-4

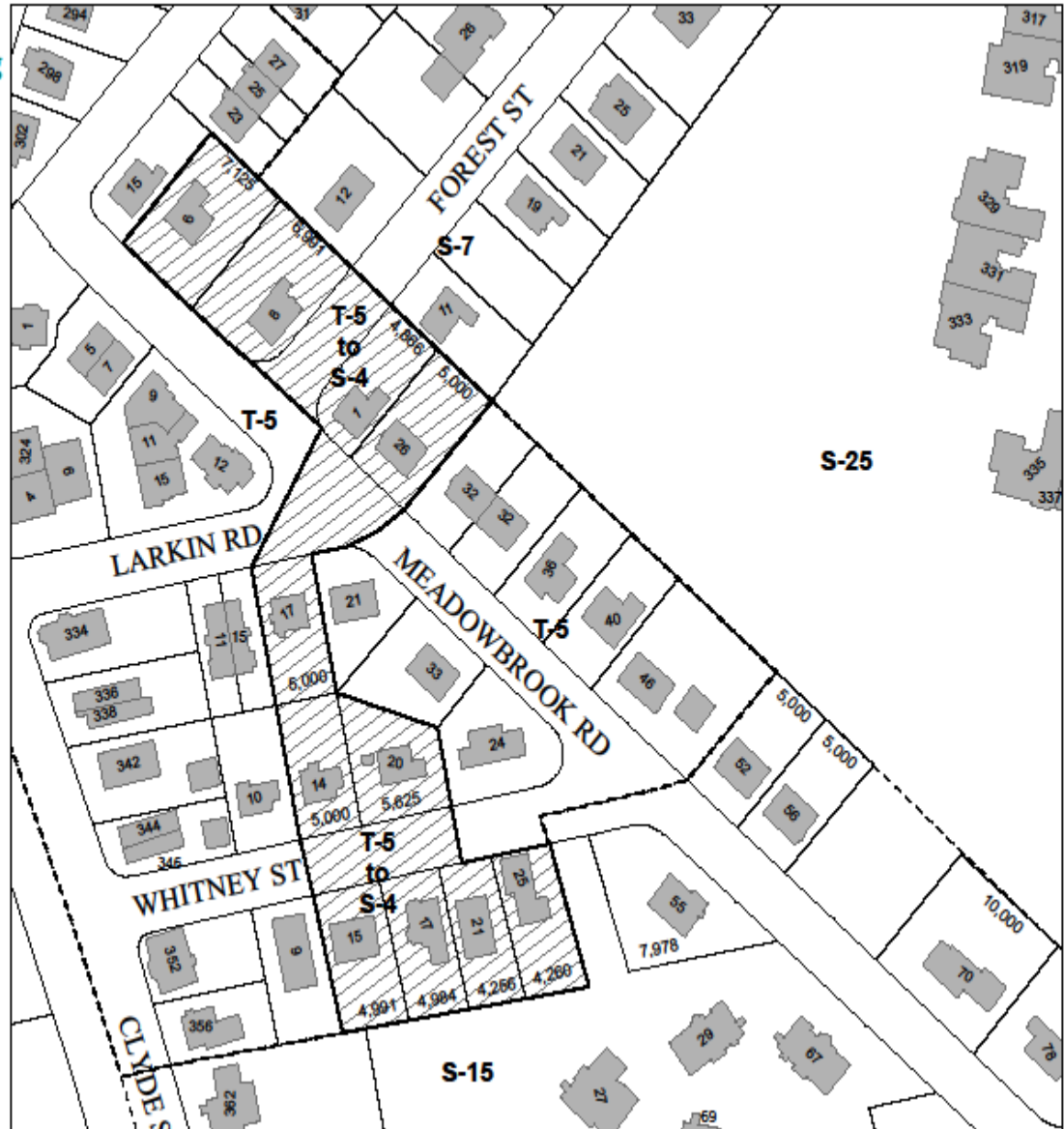
Town of Brookline,  
Massachusetts

### Legend

-  Buildings
-  T-5 to S-4



1 inch = 100 feet  
Map created by Brookline GIS on 3/12/2014



### ARTICLE 22

Submitted by: Department of Planning and Community Development

The Planning and Community Development Department is submitting this article with the support of the Selectmen's Zoning By-law Committee.

This article seeks to clarify the regulations and allow for completely self-serve gas stations, as well as allow for gas stations to have associated convenience stores and therefore sell merchandise other than auto-related products.

The current Zoning By-law has two gas station-related uses: #25, Gasoline service station, and #25A, Partially self-service gasoline stations. Use 25 was the first use to allow gas stations (presumably full-serve), while Use 25A was added in the early 1990s. Since 25A specifically

only allows partially self-serve pumps, no completely self-serve gas station is currently allowed in Brookline. The proposed article would add language in Section 6.08, Regulations Applying to Gasoline Service Stations, allowing gas stations to operate either full-serve or self-serve pumps or a combination of the two. Additional language would require gas stations, regardless of self- or full-serve, to assist persons with disabilities with refueling their vehicles when staff is signaled, underscoring existing Americans with Disabilities Act requirements for self-serve gas stations.

The proposed article would also allow for associated convenience stores with gas stations by replacing Use 25A with a new use, Gas Station with Convenience Store. This use would be allowed by special permit in the same business districts as currently allowed for gas stations. The article outlines a number of conditions for a gas station with convenience store in Section 6.08: a 3,000 s.f. limit for the convenience store; no drive-in use for the convenience store; no indoor seating; the gas station and convenience store must be operated under a single business or franchise name; and the convenience store cannot include the branded, franchised operations of a related or complementary business. Parking requirements for gas stations with convenience stores would be the same as for all gas stations, one space per 800 s.f., however, you would not be able to count the spaces at the pumps toward the total provided parking.

This article would modernize the Zoning By-law's regulations regarding gas stations, recognizing that the way gas stations now operate are quite different from when the Zoning By-law was first established. Gas stations commonly have self-serve pumps and associated convenience stores, and many people find these features attractive and convenient amenities. Additionally, some local gas stations may be interested in adding a convenience store in an effort to remain competitive with other gas stations and to attract business. The proposed conditions for gas station convenience stores, such as the restriction on indoor seating and that the convenience store and gas station be operated under the same business name, are meant to limit impacts on surrounding properties and to ensure the use is still principally a gas station, rather than a fast-food restaurant or similar, which would involve additional concerns.

## **ARTICLE 23**

**Submitted by:** Department of Planning and Community Development

The Planning and Community Development Department is submitting this article with the support of the Planning Board and the Selectmen's Zoning By-law Committee.

Use #53 of the Zoning By-law's Table of Uses allows for a separate dwelling unit for domestic employees on the same lot as a single-family dwelling, as long as the lot is at least 40,000 s.f. and is in an S-40 zoning district, and the accessory dwelling unit is no greater than 1,200 s.f. These restrictions were passed recently by Fall 2013 Town Meeting. Prior to that amendment, separate dwelling units for domestic employees were allowed by-right in any residential district and on any size lot, as long as the Floor Area Ratio was not exceeded. This warrant article would prohibit such accessory dwelling units from any single family zoning district.

As currently written, Use # 53 allows for more than one dwelling structure on a lot in a single-family zoning district based on what is essentially a temporary condition: the employment of household employees. As soon as the principal owner of the home sells the lot or decides to no longer employ domestic help, the separate dwelling unit must remain vacant or be removed in order to comply with the Zoning By-law. In practice, this is not realistic nor would it be good for

the town to have a dwelling remain vacant. It is also very difficult for the Building Department to enforce whether or not occupants are or are not domestic employees for the main house. The proposed amendment would eliminate the ability to create separate dwellings in the first place, thereby removing a zoning loophole that allows individuals to construct multiple houses on a lot without subdividing the lot.

Residents who would like live-in domestic help would still be able to house them within their homes, as long as the space was not fully separate from the rest of the house and had no full kitchen, i.e. a stove would not be allowed.

NOTE: Under Section 9.09.1.d of the current Zoning By-Law, existing carriage houses, or garages with usable space above, may be converted to a dwelling unit by use variance in a single-family zoning district. One of the standards for this relief is to preserve an architecturally or historically significant building which could not otherwise reasonably be maintained. Although the standards for a variance are high, there have been many cases in Town where carriage houses have been found historically or architecturally significant and permission for them to be converted has been granted. The proposed amendment would not change this section of the Zoning By-Law.

## **ARTICLE 24**

**Submitted by:** Department of Public Works

The Massachusetts Department of Transportation (MassDOT), Rail and Transit Division, operating as the Massachusetts Bay Transit Authority (M.B.T.A.), and working through their agent, Transit Realty Associates (TRA), has developed with the Town of Brookline, Department of Public Works (DPW), Engineering Division, an easement in which the M.B.T.A. grants specified land and air rights necessary for the reconstruction of the municipality's Carlton Street Footbridge.

The purpose of the easement is two-fold. Firstly, the document will update the existing permission to construct a footbridge over the tracks as a permanent means of egress to Riverway Park, originally granted to the Town of Brookline by the then Boston & Albany Railroad in the form of a Land Release. Secondly, the current Right-of-Way (ROW) plan delineates an area within M.B.T.A. property, supported by survey data, in which not only the footbridge is firmly located, but also the accessibility ramp appended at the northerly approach, which paired with that added at its southerly, park approach, together provide universal access compliant with current regulations. The "Right-of-Way Location Plan" will be referenced within the easement, and contain all legal bearing annotations for the footbridge and northerly ramp areas. Associated structural footings will also be located on the ROW plan.

At this time, the Carlton Street Footbridge Rehabilitation project is formally included on the Commonwealth's Transportation Improvement Program (TIP) for project funding starting in Federal Fiscal Year 2016, and Brookline DPW remains engaged with MassDOT, Highway Division, in their associated design development process, currently submitting plans and related documents prepared to their requirements that represent a 25% level of completion. Further submissions will then be required at 75% and 100%, prior to MassDOT bidding, funding and building the project.

A Town Meeting vote to accept the grant of this easement will successfully clear the footbridge project of any Right-of-Way encumbrances with the M.B.T.A., and in turn both accelerate the project's ability to move efficiently through the MassDOT design development process, and strengthen the project's position for outside funding on the State's TIP.

## **ARTICLE 25**

**Submitted by:** Retirement Board

The Act substantively changes the retirement plan for public employees in Massachusetts by adjusting retirement benefits and by providing significant enhancements to the governance and operations of the Commonwealth's retirement boards.

This article is inserted in the warrant at the request of the Brookline Retirement Board, which voted on January 15, 2014 to adopt this section by a unanimous vote by the board.

Section 34 of the Act re-wrote G.L. c. 32, § 20(6) allowing a new local option provision that replaces the current \$3,000 local option stipend and allows for an increase in the stipend paid to members of retirement boards. Currently, stipends for members of approximately two-thirds of retirement boards in the Commonwealth have been approved.

The section becomes effective on July 1, 2014. With reference to governance of retirement boards, the Act requires that retirement board members follow enhanced procurement requirements and apply increased fiduciary oversight of the retirement system's \$245,000,000 investments. In addition, retirement board members must now undergo mandatory education and training, and must file annual statements of financial interests and acknowledgements of compliance with the conflict of interest and retirement laws. Penalties for non-compliance are substantial, and non-compliance may be considered a breach of fiduciary obligations for which a Board Member would be personally liable.

In recognition of the increased responsibilities and accountability of retirement board members, the Legislature has provided this local option.<sup>20</sup>

Payment of the stipend is made from "funds under the control of the board," and would be funded from the system's return on investments. The Board Members' stipend is dependent upon acceptance of the law by a vote of the legislative body.

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<sup>20</sup> Section 34 of Chapter 176 of the Acts of 2011 provides as follows:

"Said section 20 of said chapter 32, as so appearing, is hereby further amended by striking out subdivision (6) and inserting in place thereof the following subdivision:-

(6) *Retirement Board Members Compensation.*-The elected and appointed members of a city, town, county, regional, district or authority retirement board upon the acceptance of the appropriate legislative body shall receive a stipend; provided, however, that the stipend shall not be less than \$3,000 per year and not more than \$4,500 per year; provided, further, that the stipend shall be paid from funds under the control of the board as shall be determined by the commission; and provided, further, that an ex-officio member of a city, town, county, district or authority retirement board upon the acceptance of the appropriate legislative body shall receive a stipend of not more than \$4,500 per year in the aggregate for services rendered in the active administration of the retirement system."



Although action by the local retirement board is not required in this process, the Brookline Retirement Board supports this increase, and respectfully requests that Town Meeting recognize the increased responsibilities of members of the Brookline Retirement Board by voting to accept this local option so as to provide a stipend to its members in the amount of not more than \$4,500 per year.

## **ARTICLE 26**

Submitted by: John Harris

This is intended to repeal the authorization of a Brookline Taxi Medallion program enacted as Article 21 in the Fall 2008 Town Meeting (also referred to as Chapter 51), and amended thereafter by Article 15 in the Fall 2010 Town Meeting and by Article 10 in the Fall 2011 Town Meeting—in each case, I am told, with very little debate.

At the time of writing, Brookline has a system of open licensing of taxis. Anyone who meets certain relevant requirements: is of age, meets regulatory standards regarding driver training licensing, vehicle features, upkeep and safety, etc., and pays a modest registration fee, can enter the field and become a taxi owner and/or driver in Brookline. In this the taxi business is like the dozens of other legitimate businesses—restaurants, supermarkets, pharmacies, doctors' offices, daycare services, etc.—serving the residents of Brookline, part of an open system where any hardworking person can attempt to build a business and make a living. Within weeks, unless this warrant article passes, this free and open system will change into one built around quotas, prohibitively high costs, and significant barriers to entry. This change would be deleterious to the citizens of the town, and once implemented, would be extremely difficult, if not impossible, to undo.

In its Fall 2008 session, Brookline Town Meeting authorized the Board of Selectmen to seek approval from the Massachusetts legislature to sell a limited number of “Medallions” that would henceforth be required to be placed on each taxi. The precise number of medallions will apparently to be determined by the Transportation Board and approved by the Board of Selectmen. The Transportation Department is currently finalizing regulations to introduce the taxi medallion system in Brookline.

The town is seeking to move from open licenses to medallions because it sees the sale of the medallions as a quick source of revenue to the town. But it is important to point out that the town would only benefit in the initial sale of the medallions. The purchaser of a medallion will acquire ownership rights to it, so the proceeds of any subsequent sale accrue to the owner, not to the town. And obviously such ownership rights, like those to any other form of property, may continue—quite literally—for centuries. Once established, a medallion system is extremely difficult to repeal, because it would require buying back all of the outstanding medallions, and the owners will not easily relinquish their investment. And because only a finite number of medallions will be issued, a medallion system replaces an open market-based system with an oligopoly, which may last well beyond the lifetime of those of us now considering this matter. For a single, relatively small influx of cash for newly-issued medallions, the town is considering relinquishing an important part of its control over the taxi industry for decades or centuries to come. This will have substantial deleterious effects on the people of Brookline.

In a medallion system, a government agency decides how many taxis are allowed to operate. As well-meaning as they might be, the administrators of the system can never ascertain the optimum number of cabs on the street as well as the market.

The inevitable result is scarcity by design, since operators will only purchase medallions if they guarantee competitors will be restricted. The problem compounds over time, as existing medallion holders, and the banks who loaned them the money to purchase the medallions, put constant pressure on administrators to delay issuing further medallions. The inevitable result: significantly higher fares.

In addition to their legitimate operating expenses, including of course the cost of the taxicabs, medallion owners must amortize the price of the medallion itself. Like any scarce good, the price would increase over time, sometimes astronomically. The price of medallions in New York City, for example, has risen faster than that of housing or gold. The owners have no choice but to charge higher fares. The result: higher fares. And as mentioned earlier, to add insult to injury, while the town benefits financially from the initial issuance, if a medallion is later sold, the increased value accrues to its owner, not to the town.

**MEDALLIONS INEVITABLY LEAD TO INEFFICIENCIES IN SERVICE** due to arcane rules of enforcement. We have all hailed empty taxis and watched them drive by: they often are in a jurisdiction where they are allowed to drop off, but not pick up, passengers. When this happens, passengers are delayed, drivers are deprived of income, gas is wasted, and carbon is exhausted into the atmosphere. This is economically and environmentally irresponsible.

**A ROBUST TAXI INDUSTRY WOULD GREATLY EASE BROOKLINE'S PARKING PROBLEM.** There has been much discussion of the inconvenience of public transportation, but little regarding how a healthy taxi system can supplement its services. Public transportation can never be so complete that it can carry people to their final destination down every last street in town—what transportation planners call the “last mile”—but a healthy taxi system, with modest fares, can. A low-cost taxi system makes living without a car possible, and greatly mitigates the need for parking spaces.

**MEDALLIONS ARE A SOCIAL EQUITY ISSUE.** Taxi ownership has conventionally been a stepping-stone to the middle class for ambitious people of limited means. Locally, I especially notice recently-arrived Haitian drivers who, in addition to paying their living expenses, are trying to save for their children's educations *and* send a portion of their earnings to their families back home. In Boston, medallions are currently selling for over \$600,000. If Brookline requires medallions, it is doubtful these drivers could ever qualify for the substantial loan they would need to purchase one. Drivers would be caught in a noose, paying through the nose for a taxi they cannot reasonably be expected to one day own. They would in effect be forced to remain low-paid daily contract workers for their entire careers.

The drivers' financial straits are compounded because **MEDALLION SYSTEMS MAKE CORRUPTION INEVITABLE.** Since only a few increasingly-wealthy medallion holders would own taxis, there would be many more drivers than vehicles with medallions. An investigative series in the Boston Globe last spring revealed that drivers often must bribe dispatchers to be issued keys for a 12 hour shift, in addition to their formal daily “rent” for the cabs.

One wonders why taxis, which provide the public with a useful service, should be subject to a regulatory regime similar to that imposed on the liquor industry. We have wisely decided to regulate the number and location of establishments selling alcohol in our communities. With rare exceptions, a new restaurant or bar can only obtain a liquor license by purchasing an existing one. In this instance, society is better served by restricting trade. In contrast, there is no reason to limit the number of taxis, and every reason not to.

The taxi industry would be more appropriately regulated with a system like the one governing private drivers' licenses or automobile registrations. The state issues a license to anyone who is of age and passes written and driving tests, and issues a registration to any vehicle that is ensured and that passes an inspection (and in both cases, pays the fee). Placing a quota on the number of drivers' licenses or registrations would impose undue hardship on those prohibited from driving, and would have a devastating impact on the economy.

So too with taxi medallions. We can and should establish rigorous regulations regarding the vehicles (construction quality, size, safety features, accessibility, etc.) and the training and licensing of drivers, but we should not limit the number of cabs.

Finally, a robust taxi system would encourage more residents to forego car ownership, and save the expense of a car loan, insurance, fuel, parking, and upkeep, for vehicles that spend most of their lives parked and idle. Given Brookline's density, many citizens would be better served by walking, cycling, taking a bus or subway, renting a car hourly, daily or weekly for the occasional errand or long-distance trip—and when appropriate taking a taxi.

#### **ARTICLE 27**

Submitted by: Neil Gordon

This Resolution recommends that the Board of Selectmen and by extension the Town of Brookline, in modest fashion but in a meaningful way, honor the memory of deceased veterans who were residents of the Town of Brookline. Equally modest is the imposition on the Board of Selectmen's time and the cost of administering this simple program.

Requests are likely to be few and it is unlikely that requests will be received from the families of veterans with only a casual connection to Brookline.

Individual resolutions of the Board of Selectmen, recorded in their minutes, will permanently memorialize, by name, the honorable service, of our friends, family and neighbors in the Armed Forces of the United States.

#### **ARTICLE 28**

Submitted by: Frank Caro

Section 7.7 of Brookline's bylaws specifies the obligations of property owners to maintain sidewalks adjacent to their property in a non-slippery condition after snow and ice storms. Section 7.7.1 states that "...In a business district, the owner of land adjacent to a sidewalk..." is responsible for maintaining "... the sidewalk, in a non-slippery condition suitable for pedestrian travel" within the first 3 daytime hours "after snow and ice have come upon the sidewalk and maintain the sidewalk in a non-slippery condition as necessary."

Although safe sidewalks in the winter are a concern throughout Brookline, sidewalk conditions are particularly important in business districts because of the high volume of pedestrian traffic there. While most property owners in business districts do a good job of maintaining their sidewalks in the winter, a substantial minority do not. Sidewalk safety requires that all sidewalks be cleared. Because we regularly have prolonged periods of cold weather after snow storms, we often have extended periods in which some sidewalks are hazardous because snow was not cleared promptly. Falls on icy sidewalks can cause serious injuries. Further, fear of ice on sidewalks causes some older people to be home bound.

Brookline has a complaint-driven system for enforcing its winter sidewalk maintenance bylaw. Inspectors are sent out after complaints are received by the Department of Public Works. On Mondays through Fridays, complaints that have been received within the prior 24 hours are assigned at 8:30 AM to inspectors employed by the four departments that are involved in enforcement. Even if complaints are made promptly, a lag of at least 24 hours is likely between the time a citizen observes the problem and the time when an inspector visits the site of the complaint. During that period, pedestrians are at risk. When storms occur on Fridays or Saturdays, no enforcement occurs before Mondays. Consequently, weekends extend the period when pedestrians are at risk.

For the past three winters, the Brookline Community Aging Network has organized a small team of volunteers who walk the business after snow storms to observe the condition of sidewalks. Team members regularly submit reports of hazardous sidewalks to the Department of Public Works. The team covers Coolidge Corner, Washington Square, Brookline Village, St. Mary's, and JFK Crossing. The fact that a team of volunteers is able to walk the sidewalks in business districts to monitor conditions after snow storms demonstrates that proactive observation of sidewalk conditions by pedestrians is feasible.

The consequences of the reports submitted by the team are uncertain. In some cases, sidewalks are better maintained after a report has been submitted. No information is available on follow through by Town inspectors on the complaints that have been submitted.

The monitoring done by the volunteers has not been sufficient to assure that sidewalks in the business districts are universally well maintained. Stronger action is needed. Proactive enforcement would inform property owners that the Town is serious about the obligation of property owners to maintain sidewalks in a safe condition.

Parking meter enforcement in Brookline's business areas provides precedent for the proposed winter sidewalk maintenance enforcement. Brookline's parking meter enforcement is proactive. Further in business districts, enforcement officers patrol on foot.

## **ARTICLE 29**

**Submitted by:** Brookline Local First

Formed in March 2012, Brookline Local First is a network of locally-owned, independent businesses. Our mission is to build a strong local economy and vibrant community by educating residents and local government leaders about the significant environmental, economic and cultural benefits of doing business with locally-owned, independent businesses.

The benefits of shopping locally have been proven through several studies about local economies. Purchasing from locally owned and independent businesses strengthens our local economy, and our community. Keeping our money locally also supports locally-owned and independent businesses that help maintain the distinctive flavor that Brookline offers citizens. When we shop locally we decrease our negative impact on the earth's environment by reducing the distance between the origin and destination of products as well as the distance required to purchase the products

Locally-owned, independent businesses enhance the identity of our community, and are an important part of creating a sense of place. Brookline Local First is sponsoring the following Town Meeting Resolution to focus our community's resources where they can make the biggest impact on our community and local economy.

### **ARTICLE 30**

Submitted by: Scott Gladstone

The Starfish Club is a student run organization at Brookline High School that started in 2012. The club raises money and awareness for women and girls with obstetric fistula. The club takes pride in its name, which is a symbol for making a difference. The following story is taken from the book, Half the Sky: Turning Oppression into Opportunity for Women Worldwide by Nicholas D. Kristof and Sheryl WuDunn:

A man goes out on the beach and sees that it is covered with starfish that have washed up in the tide. A little boy is walking along, picking them up and throwing them back into the water. "What are you doing, son?" the man asks. "You see how many starfish there are? You'll never make a difference." The boy paused thoughtfully, and picked up another starfish and threw it into the ocean. "It sure made a difference to that one," he said.

Just as the boy is making a difference helping one starfish at a time, the Starfish Club is making a difference one girl at a time. To raise money and awareness, the club purchases beads, made by women in Cambodia, through a fair trade organization, to help microfinance those women. The club then uses the beads to make bracelets that it sells for \$20 each. As the Resolution states, the surgery to repair a fistula costs only \$450 and the success rate is above 90%. With only a small sum of money, the club can give a girl her life back. Each bracelet also has a tag on it in order to educate people about the problem of obstetric fistula.

Last year the Starfish Club held a fundraiser at the BATV studio where it raised \$1,500 for the Fistula Foundation, to which all of the club's fundraising proceeds are forwarded. Two speakers came to the fundraiser to talk about obstetric fistula and their work in trying to eradicate it: Jessica Love, on behalf of Kate Grant who is the Executive Director of the Fistula Foundation and Jennifer Scott, a gynecologist at the Brigham who has performed fistula correction surgeries in rural Africa. The club's goal for this year continues to be to raise money and awareness to help save these girls. The Starfish Club brings forward this Resolution in order to continue its mission to educate as many people as possible about this issue.

## **ARTICLE 31**

**Submitted by:** Alex Coleman

The Town of Brookline has a strong commitment to diversity and inclusion and promotes an environment that is free of discrimination and harassment for all its employees, residents, visitors, and clients, and

The Town of Brookline recognizes that everyone has the right to live free from discrimination and harassment, and believes that no individual should be denied equal treatment or opportunity due to discrimination, and that no individual should suffer harassment due to bias.

Transgender people suffer pervasive discrimination on the basis of gender identity and expression in employment, housing, public accommodations, education and credit and lending.

However, local, state and federal government laws, regulations and ordinances are not fully inclusive in their protections for gender identity and expression.

The Town of Brookline, consistent with its strong commitment to diversity and inclusion, can explicitly adopt the prohibition against discrimination or harassment based on gender identity and expression in employment, housing, public accommodations, credit and lending, and public education.

## **ARTICLE 32**

**Submitted by:** Frank Farlow and Byron Hinebaugh

Dr. James Hansen, director of NASA's Goddard Institute for Space Studies, told Congress, "The global warming is now large enough that we can ascribe with a high degree of confidence a cause-and-effect relationship to the greenhouse effect." The year was 1988. But in the 25 years since, Congress has done considerably more to increase that greenhouse effect than to reduce it. Indeed, with rampant hydrofracking, President Obama's directing his administration "to open more than 75 percent of our offshore oil and gas resources" to drilling, and high-tech accessing of oil in the Canadian tar sands, a new day of plentiful fossil fuels is being widely celebrated in DC and in the media.

Meanwhile, Germany's goals are very different: at least 35 percent of electric power is to be generated by renewables by 2020 and total energy consumption reduced by 20 percent with a million electric cars on the road. By 2050 it plans to obtain 80 percent of the power for its factories and most of the heat for its homes from wind, solar, geothermal, tidal power and other renewable sources. Already about 20 percent of its electricity comes from renewables.

Hansen, who is one of the most respected climatologists in the world, has remained at the forefront of the climate change movement. Five years ago he and several colleagues wrote that "if humanity wishes to preserve a planet similar to that on which civilization developed and to which life on Earth is adapted," we need to return to CO<sub>2</sub> levels of 350 parts per million from our current level of nearly 400 ppm and rising. That led Bill McKibben to found the group 350.org. Many scientists, climate experts, and progressive national governments agree with Dr. Hansen that 350 ppm is the "safe" level of carbon dioxide.

Almost every government in the world has come to agree that any warming above a 2° Celsius

(3.6° Fahrenheit) rise would be unsafe. We have already seen a rise of 0.8°C, and that has caused far more damage than most scientists expected. A third of summer sea ice in the Arctic is gone, and since warm air holds more water vapor than cold, the likelihood has risen substantially for both devastating floods and drought. Computer models calculate that even if CO<sub>2</sub> levels stopped increasing now, the temperature would still rise another 0.8 degrees above the 0.8 we've already seen, which means that we're already 4/5 of the way to the 2°C limit.

Perhaps worst of all, very few in the general public are aware of the degree to which the inertia of the planet's climate system carries its current condition into the far distant future. The world is already locked into at least a 2°C global temperature increase that will last for *thousands of years*, according to a recent report released by the National Research Council: "Previously the conversation has been about the next generation or two, but now we're looking at millennia." To prevent the global average temperature from increasing more than 2°C, carbon dioxide emissions would have to be reduced by *80 percent—now*, the report said. The sooner emissions are reduced, the authors wrote, the sooner the temperature climb will level off, or stabilize. "Stabilization," however, doesn't mean the world will cool back down; it will just stop getting hotter.

### **The divestment movement**

The Brookline Climate Action Plan states that "Brookline has a choice. We can take positive steps to reduce our greenhouse gas (GHG) emissions, or we can continue to wait for some other entity to come up with a universal 'fix.' "

During the past year a fossil fuel divestment movement has surged into existence, led by 350.org. More than 300 colleges and universities nationwide, having decided not to continue waiting for some other entity to take action, are developing or have submitted resolutions to their governing bodies urging divestment of fossil fuel companies from their endowments. Nine of those schools have already committed to divestment. The same process has been occurring in cities, and 21 in the U.S.—with Massachusetts disproportionately represented—have committed to divest their pension and/or healthcare funds or urge their investment boards to do so (<http://gofossilfree.org/commitments/>):

Amherst MA	Cambridge MA	Portland OR	Santa Fe NM
Ann Arbor MI	Ithaca NY	Providence RI	Santa Monica CA
Bayfield WI	Madison WI	Provincetown MA	Seattle WA
Berkeley CA	New London CT	Richmond CA	State College PA
Boulder CO	Northampton MA	San Francisco CA	Truro MA

Resolutions on municipal fossil fuel divestment will also be on the warrant for the upcoming Concord, Framingham and Sudbury town meetings. And finally, Senate Bill 1225, the subject of this warrant article is in committee on Beacon Hill. It's a rapidly growing movement, and one of the most promising ways currently available to begin to break through the gridlock in Congress.

Global warming can't be stopped by protesting one pipeline, coal plant or fracking well at a time—the numbers simply don't add up. At the same time that some are working to stop these destructive projects, many more of us need to take effective action to loosen the financial and lobbying grip that coal, oil and gas companies have on our government and financial markets so that we, our children and grandchildren have a chance of living on a planet that looks something

like the one we live on today. We need to go the root of the problem, the fossil fuel companies themselves, and make sure they hear us in terms they might understand—like their share price.

Transitioning to safer energy will take concerted effort over many years. We need to begin that process in earnest right now.

### **Divestment precedents**

There have been several successful divestment campaigns in recent history, including Darfur, tobacco and others, but the largest and arguably most important was launched to cripple South African apartheid. By the mid-1980's, 155 U.S. campuses, including some of the most famous in the country, had divested from companies doing business in South Africa. Twenty-six state governments, 22 counties and 90 cities, including some of the nation's largest, removed their money from the stocks of multinationals that did business in the country. The South African divestment campaign helped break the back of the apartheid government and usher in an era of democracy and greater equality.

### **Can divesting funds from universities, pension funds and churches make a significant impact?**

Divestment isn't primarily an economic strategy, but a moral and political one. Just as in the struggle for Civil Rights here in America or the fight to end Apartheid in South Africa, the more we can make climate change a deeply moral issue, the more we will push society towards action. We need to make it clear that if it's wrong to wreck the planet, then it's also wrong to profit from that wreckage. At the same time, divestment builds political power by forcing our nation's most prominent institutions and individuals (many of whom sit on college boards) to choose which side of the issue they are on. Divestment sparks a big discussion and gets prominent media attention, moving the case for action forward.

At the same time, there *are* certain economic impacts. The top 500 or so college and university endowments hold about \$400 billion. That's a large number—and getting a major percentage of that money out of coal, oil and gas will make a large splash. Add in the big state pension funds, and church, synagogue and mosque investments, and we'll be well on our way to making ExxonMobil, Shell and Peabody Coal recognize the realities of the planet's future.

To keep warming below 2°C, a target that the United States and nearly every other country on Earth has agreed to, the International Energy Agency calculates that the fossil fuel industry will need to refrain from burning approximately 80% of their current reserves of coal, oil, and gas. Those reserves may be below ground physically, but they're already factored into the share price of every fossil fuel company. Globally, the value of those reserves is around \$20 trillion, money that will have to be written off when governments finally decide to regulate carbon dioxide as a pollutant.

The Carbon Tracker Initiative, a team of London financial analysts, estimates that proven coal, oil, and gas reserves of the fossil-fuel companies and the countries (such as Venezuela and Kuwait) that act like fossil-fuel companies total about 2,795 gigatons of CO<sub>2</sub>, or five times the amount we can release to maintain 2 degrees of warming.

### **Can we still make a desirable return?**



Firstly, the percentage of fossil fuel companies in the state pension fund is less than 3%. So when we consider, say, a 1% difference in returns between a portfolio containing fossil fuel companies and a portfolio containing no such companies, we're not looking at 1% of the value of the entire portfolio, but only 3% of 1%—or 0.03% of the value of the entire portfolio. So if returns from the state's pension fund were to suffer from divestment, this percentage consideration would make the result much less painful than it might at first appear. Since the value of the pension fund is currently about \$58 billion, 0.03% of its value would be \$17.4 million.

While it's true that fossil fuel companies are currently extremely profitable, they're also risky investments<sup>21</sup> that are only going to become more risky. Their business models rest on emitting five times as much CO<sub>2</sub> into the atmosphere than civilization can handle, which makes their current share prices substantially higher than they should be in reality. In addition, disasters like the Exxon Valdez and the BP Deepwater Horizon oil spill, along with massive fluctuations in supply and demand of coal, oil and gas, make energy markets particularly volatile, and therefore risky.

Report after report has shown that investing in clean energy, efficiency and other sustainable technologies can be even more profitable than investing in fossil fuels<sup>22</sup>. It's a growing market, with over \$260 billion invested globally last year, and a safe place to invest.<sup>23</sup> "Socially responsible investing," which covers a broader area, is an even larger market. The fact that these markets have been growing for years is a good indication that investor confidence in them is continuing to increase.

The Sierra Club is an example of a large organization that has adopted a clear policy against investing in, or taking money from, fossil fuel companies. Executive director Michael Brune stated recently: "[W]e are fully confident that we can get as good if not better returns from the emerging clean energy economy than we can from investing in the dirty fuels from the past.

## S. 1225 legislative supporters

Sen. Mike Barrett	Sen. Daniel Wolf	Rep. Sean Garballey	Rep. James Miceli
Sen. Will Brownsberger	Rep. Denise Andrews	Rep. Ken Gordon	Rep. Kevin Murphy
<u>Sen. Katherine Clark</u>	Rep. Cory Atkins	Rep. Jonathan Hecht	Rep. Denise Provost
Sen. Cynthia Creem	Rep. Jennifer Benson	Rep. Jay Kauffman	Rep. David Rogers
Sen. Sal DiDomenico	Rep. Tom Conroy	Rep. Mary Keefe	Rep. John Scibak
Sen. Kenneth Donnelly	Rep. Dan Cullinane	Rep. Kay Khan	Rep. Carl Sciortino
Sen. Jamie Eldridge	Rep. Marjorie Decker	Rep. Peter Kocot	Rep. Frank Smizik
Sen. Barry Finegold	Rep. Carolyn Dykema	Rep. Stephen Kulik	Rep. Ellen Story
Sen. Pat Jehlen	Rep. Lori Ehrlich	Rep. Jason Lewis	Rep. Benjamin Swan
Sen. Karen Spilka	Rep. John Fernandes	Rep. Liz Malia	Rep. Aaron Vega
Sen. Marc Pacheco	Rep. Gloria Fox	Rep. Paul Mark	Rep. Chris Walsh

<sup>21</sup> <http://www.ceres.org/resources/reports/sustainable-extraction-an-analysis-of-sec-disclosure-by-major-oil-gas-companies-on-climate-risk-and-deepwater-drilling-risk/view>

<sup>22</sup> <http://www.forbes.com/sites/mindylubber/2012/03/20/investors-are-making-money-on-renewable-energy/>

<sup>23</sup> <http://www.reuters.com/article/2012/01/12/us-clean-tech-investment-idUSTRE80B1NX20120112>

## **S.1225 organizational endorsers**

350MA  
350.Org  
Massachusetts Climate Action Network  
Better Future Project  
Students For a Just and Stable Future  
Mothers Out Front  
MoveOn.Org  
SEIU Local 509  
Climate Action Liaison Coalition  
Conservation Law Foundation  
Environmental League of MA  
Environment MA  
Clean Water Action  
Toxics Action Center  
Massachusetts Climate Action Network  
Boston Climate Action Network  
Concord Climate Action Network  
Coop Power  
Climate Action Now, Massachusetts  
Mass. Teachers and Public Employees for Fossil  
Fuel Divestment  
Neighbor to Neighbor, Holyoke  
Pioneer Valley PhotoVoltaics  
Planet Southie  
First Parish Unitarian Universalist of Cambridge  
Unitarian Universalist Society of Amherst

City of Cambridge  
City of Northampton  
Town of Amherst  
Town of Provincetown  
Town of Truro  
  
Divest Amherst College  
Divest Boston College  
Divest Boston University  
Divest Brandeis University  
Divest Emerson College  
Divest Harvard University  
Divest Lesley College  
Divest MIT  
Divest Mt. Holyoke College  
Divest Northeastern University  
Divest Smith College  
Divest Stonehill College  
Divest School of the Museum of Fine Arts  
Divest Suffolk University  
Divest Wheaton College  
Divest Worcester Polytechnic Institute  
Divest Williams College  
Divest Worcester State University  
Hampshire College Climate Justice  
League

**Text of S.1225**

Note: It is the intent of Sen. Downing's office, where this bill originated, to amend the language of Section 1 below by adding the following definition:

*"Fossil fuel company", a company identified by a Global Industry Classification System code in one of the following sectors: (1) coal and consumable fuels; (2) integrated oil and gas; (3) oil and gas exploration and production.*

**SENATE . . . . . No. 1225**

**The Commonwealth of Massachusetts**

PRESENTED BY:

***Benjamin B. Downing***

An Act relative to public investment in fossil fuels.

1           SECTION 1. As used in this act the following words shall, unless the context clearly  
2 requires otherwise, have the following meanings:—

3           "Board", the pension reserves investment management board established in section 23 of 4  
chapter 32 of the General Laws.

5           "Company", a sole proprietorship, organization, association, corporation, partnership,  
6 joint venture, limited partnership, limited liability partnership, limited liability company or other  
7 entity or business association, including all wholly-owned subsidiaries, majority-owned  
8 subsidiaries, parent companies or affiliates of such entities or business associations that exist for 9 profit-  
making purposes.

10          "Direct holdings", all securities of a company held directly by the public fund or in an  
11 account or fund in which the public fund owns all shares or interests.

12          "Indirect holdings", all securities of a company held in an account or fund, such as a  
13 mutual fund, managed by 1 or more persons not employed by the public fund, in which the  
14 public fund owns shares or interests together with other investors not subject to this act.

15          "Public fund", the Pension Reserves Investment Trust or the Pension Reserves  
16 Investment Management Board charged with managing the pooled investment fund consisting of  
17 the assets of the State Employees' and Teachers' Retirement Systems as well as the assets of  
18 local retirement systems under the control of the board.

19          SECTION 2. Notwithstanding any general or special law to the contrary, within 30 days  
20 of the effective date of this act, the public fund shall facilitate the identification of all fossil fuel  
21 companies in which the fund owns direct or indirect holdings.

22          SECTION 3. Notwithstanding any general or special law to the contrary, the public fund  
23 shall take the following actions in relation to fossil fuel companies in which the fund owns direct  
24 or indirect holdings.

25          (a) The public fund shall sell, redeem, divest or withdraw all publicly-traded securities of  
26 each company identified in section 2 according to the following schedule: (i) at least 20 per cent  
27 of such assets shall be removed from the public fund's assets under management within 1 year of

the effective date of this act; (ii) 40 per cent of such assets shall be removed from the public fund's assets under management within 2 years of the effective date of this act; (iii) 60 per cent of such assets shall be removed from the public fund's assets under management within 3 years of the effective date of this act; (iv) 80 per cent of such assets shall be removed from the public fund's assets under management within 4 years of the effective date of this act and (v) 100 per cent of such assets shall be removed from the public fund's assets under management within 5 years of the effective date of this act.

(b) At no time shall the public fund acquire new assets or securities of fossil fuel companies.

(c) Notwithstanding anything in this act to the contrary, subsections (a) and (b) shall not apply to indirect holdings in actively managed investment funds; provided, however, that the public fund shall submit letters to the managers of such investment funds containing fossil fuel companies requesting that they consider removing such companies from the investment fund or create a similar actively managed fund with indirect holdings devoid of such companies. If the manager creates a similar fund, the public fund shall replace all applicable investments with investments in the similar fund in an expedited timeframe consistent with prudent investing standards. For the purposes of this section, private equity funds shall be deemed to be actively managed investment funds.

SECTION 4. Notwithstanding any general or special law to the contrary, with respect to actions taken in compliance with this act, the public fund shall be exempt from any conflicting statutory or common law obligations, including any such obligations with respect to choice of asset managers, investment funds or investments for the public fund's securities portfolios and all good faith determinations regarding companies as required by this act.

SECTION 5. Notwithstanding any general or special law to the contrary, the public fund shall be permitted to cease divesting from companies under subsection (a) of section 3, reinvest in companies from which it divested under said subsection (a) of said section 3 or continue to invest in companies from which it has not yet divested upon clear and convincing evidence showing that the total and aggregate value of all assets under management by, or on behalf of, the public fund becomes: (i) equal to or less than 99.5 per cent; or (ii) 100 per cent less 50 basis points of the hypothetical value of all assets under management by, or on behalf of, the public fund assuming no divestment for any company had occurred under said subsection (a) of said section 3. Cessation of divestment, reinvestment or any subsequent ongoing investment authorized by this section shall be strictly limited to the minimum steps necessary to avoid the contingency set forth in the preceding sentence.

For any cessation of divestment, and in advance of such cessation, authorized by this subsection, the public fund shall provide a written report to the attorney general, the senate and house committees on ways and means and the joint committee on public service, updated semi-annually thereafter as applicable, setting forth the reasons and justification, supported by clear and convincing evidence, for its decisions to cease divestment, to reinvest or to remain invested in fossil fuel companies.

SECTION 6. The public fund shall file a copy of the list of fossil fuel companies in which the fund owns direct or indirect interests with the clerks of the senate and the house of representatives and the attorney general within 30 days after the list is created. Annually thereafter, the public fund shall file a report with the clerks of the senate and the house of representatives and the attorney general that includes: (1) all investments sold, redeemed, divested or withdrawn in compliance with subsection (a) of section 3 and (2) all prohibited investments from which the public fund has not yet divested under subsection (a) of said

75 section 3.

**ARTICLE 33**

Any reports from Town Officers and Committees are included under this article in the Combined Reports. Town Meeting action is not required on any of the reports.

MAY 27, 2014  
ANNUAL TOWN MEETING  
INDEX

<u>ARTICLE NO.</u>	<u>TITLE</u>
1.	Appointment of Measurers of Wood and Bark. (Selectmen)
2.	Approval of Collective Bargaining Agreements. (Human Resources)
3.	Annual Authorization of Compensating Balance Agreements. (Treasurer/Collector)
4.	Report on the Close-out of Special Appropriations / Bond Authorization Rescission. (Selectmen)
5.	Approval of Unpaid Bills of a Prior Fiscal Year. (Selectmen)
6.	Acceptance of Legislation to Increase Property Tax Exemptions. (Assessors)
7.	FY14 Budget Amendments. (Selectmen)
8.	Annual (FY15) Appropriations Article. (Advisory Committee)
9.	Changes to the Senior Property Tax Deferral Program (MGL Ch. 59, Sec. 5, Cl. 41A) -- increase in the income limit and reduction in the interest rate. (Petition of Arthur Wellington Conquest III and Brooks Ames)
10.	Amendment to Article 3.14 of the Town's By-Laws -- revocation of the current "Division of Human Relations – Youth Resources" and creation of a new "Diversity, Inclusion and Community Relations Commission and Department". (Selectmen's Diversity, Inclusion, and Affirmative Action Committee)
11.	Amendment to Article 5.10 of the Town's By-Laws – Neighborhood Conservation Districts -- establishment of the Greater Toxteth Neighborhood Conservation District. (Neighborhood Conservation District Commission)
12.	Amendment to Article 8.15 of the Town's By-Laws – Noise Control -- clarification of definitions. (Petition of Fred Lebow)
13.	Amendment to Article 8.23 of the Town's By-Laws – Tobacco Control -- creation of a 400 ft. no-smoking zone around Brookline High School. (Petition of Nathan Bermel)
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18. Acceptance of a Restrictive Covenant from Children’s One Brookline Place, LLC and Children’s Brookline Place, LLC. (Board of Selectmen)
19. Authorize the Board of Selectmen to release the 2007 documents executed in connection with the acquisition of development rights in 2-4 Brookline Place and enter into new agreements with respect to the current proposed development at Brookline Place. (Board of Selectmen)
20. Amendment to the Zoning Map – amend the zoning map to change the zoning for 273, 277, and 281 Mason Terrace from S-7 to T-6. (Petition of Daniel Simkovitz and Elena Budrene-Kac)
21. Amendment to the Zoning By-Law – Section 3.01.1 (Classification of Districts), Modification of Zoning Map, and Modification of Table 5.01 (Table of Dimensional Requirements) -- create a new S-4 zoning district and change several lots in the Meadowbrook area from T-5 to S-4. (Petition of Diane Gold)
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32. Resolution In Support of Senate Bill 1225 – An Act Relative to Public Investment in Fossil Fuels. (Petition of Frank Farlow and Byron Hinebaugh)
33. Reports of Town Officers and Committees. (Selectmen)

#### 2014 ANNUAL TOWN MEETING WARRANT REPORT

The Board of Selectmen and Advisory Committee respectfully submit the following report on Articles in the Warrant to be acted upon at the 2014 Annual Town Meeting to be held on Tuesday, May, 27, 2014 at 7:00 p.m.

Note: The following pages of this report are numbered consecutively under each article.



## Draft Schedule

March 25	School budget preview
March 27	Non-DPW CIP Arts 1, 3, 4, 5, 7 (A&F) Art. 2 (Personnel)
April 1	Art. 6, 9 (Personnel) Art 12 (Public Safety) Art. 30 (Human Services)
April 2 -	OSC Presentation
April 3 –	No Meeting (This would be a good time to schedule subcommittee Hearings.)
April 8	Art 20, 21, 22, 23 (Pl & Reg)
April 10	Art 13, 14 (Human Services) Art 31 (Schools) Art 32 (Public Safety)
April 15	No AC
April 17	School Budget Art 24 (Capital)
April 22-25	School Vacation
April 29	Art. 11,28,29 (Capital)
May 1	Brookline Place Night Art. 15,16,17,18,19 (BPLAC Ad Hoc)
May 2	Art 10 (DICR Ad Hoc) Write-Ups Due
May 6	Elections – no meeting
May 7 (Wed)	Art 25 (Pb Safety) Art 26 (TAXI Ad Hoc) Art 27 (Personnel)
May 9	Combined Reports Mailed
May 16	Supplemental Mailing
May 27	Town Meeting

## 2014 TOWN MEETING

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2. Approval of Collective Bargaining Agreements. (Human Resources) **PERSONNEL**
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4. Report on the Close-out of Special Appropriations / Bond Authorization Rescission. (Selectmen) **A&F**
5. Approval of Unpaid Bills of a Prior Fiscal Year. (Selectmen) **A&F**
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A&F – 1,3,4,5,7

Personnel –2,6,9,27

Capital – 11 (+ Sean), 24, 28, 29 (+Lea)

Human Services –13, 14, 30, Ad Hoc DICR (10)

Pl&Reg – 20, 21, 22, 23, Ad Hoc BPLAC (15, 16)

Public Safety – 12, 25, 32

Schools – 31

Ad Hoc DICR –10 (Bernard, Mike, Sytske, Leah, Amy)

Ad Hoc BPLAC – 15, 16, 17, 18, 19 (Sean, Lee, Angela, Kelly, Pam/Carla, Stanley)

Ad Hoc TAXI – 26 (John, Fred, Cliff, Mike, Kelly)